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Approved For Release 2009/07/24 : CIA-RDP87M00539R002704460012-3

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Approved For Release 2009/07/24 : CIA-RDP87M00539R002704460012-3

ER

Central Intelligence Agency



Washington, D.C. 20505

OLL: 85-2433

6 SEP 1985

The Honorable Joseph R. Wright, Jr.  
Deputy Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Joe:

As you know, Senator Roth has asked for a written statement from CIA on S. 1527, the Stevens-Roth retirement reform bill. Our own draft bill and our proposed substantive response to Senator Roth are in your shop undergoing review. Consequently, I have sent the enclosed courtesy note to Senator Roth so he won't take our silence as disinterest.

Sincerely,

/s/ William J. Casey

William J. Casey  
Director of Central Intelligence

Enclosure



P-132

Central Intelligence Agency



Washington, D.C. 20505

OLL: 85-2433/1

6 SEP 1985

The Honorable Dave Durenberger, Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed for your information is a copy of a letter I have just sent to Senator Roth, Chairman of the Senate Committee on Governmental Affairs, concerning S. 1527 and the reformation of the Federal retirement system.

Despite our present inability to join in the public Congressional hearings on this subject, I want to express to you my deepest concern for a sound and appropriate retirement system for the employees of CIA. I hope to pursue this with you in the near future.

Sincerely,

/s/ William J. Casey

William J. Casey  
Director of Central Intelligence

Enclosure



Central Intelligence Agency



Washington, D.C. 20505

OLL: 85-2433/2

6 SEP 1985

The Honorable Ted Stevens  
United States Senate  
Washington, D.C. 20510

Dear Senator Stevens:

Enclosed for your information is a copy of a letter I have just sent to Senator Roth, Chairman of the Senate Committee on Governmental Affairs, concerning S. 1527 and the reformation of the Federal retirement system.

Despite our present inability to join in the public Congressional hearings on this subject, I want to express to you my deepest concern for a sound and appropriate retirement system for the employees of CIA. I hope to pursue this with you in the near future.

Sincerely,

/s/ William J. Casey

William J. Casey  
Director of Central Intelligence

Enclosure





Central Intelligence Agency



Washington, D. C. 20505

OLL: 85-2433/3

6 SEP 1985

The Honorable Lee H. Hamilton, Chairman  
Permanent Select Committee on Intelligence  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed for your information is a copy of a letter I have just sent to Senator Roth, Chairman of the Senate Committee on Governmental Affairs, concerning S. 1527 and the reformation of the Federal retirement system.

Despite our present inability to join in the public Congressional hearings on this subject, I want to express to you my deepest concern for a sound and appropriate retirement system for the employees of CIA. I hope to pursue this with you in the near future.

Sincerely,

*/s/ William J. Casey*

William J. Casey  
Director of Central Intelligence

Enclosure



Central Intelligence Agency



Washington, D.C. 20505

OLL: 85-2433/4

6 SEP 1985

The Honorable William D. Ford, Chairman  
Committee on Post Office and Civil Service  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed for your information is a copy of a letter I have just sent to Senator Roth, Chairman of the Senate Committee on Governmental Affairs, concerning S. 1527 and the reformation of the Federal retirement system.

Despite our present inability to join in the public Congressional hearings on this subject, I want to express to you my deepest concern for a sound and appropriate retirement system for the employees of CIA. I hope to pursue this with you in the near future.

Sincerely,

/s/ William J. Casey

William J. Casey  
Director of Central Intelligence

Enclosure



Central Intelligence Agency



Washington, D.C. 20505

OLL: 85-2433/5

6 SEP 1985

The Honorable William V. Roth, Jr.  
Chairman  
Committee on Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

As your Committee begins consideration of S. 1527, the Civil Service Pension Reform Act, I want to thank you for your invitation to submit written comments on this measure. We have under consideration at OMB a legislative proposal which would permit the Central Intelligence Agency to administer a retirement program specially designed to meet the security and management needs of this Agency. Until OMB completes its deliberations, I believe it is premature to discuss this proposal. Therefore, with all due respect, I must decline your invitation to submit a statement for the record on S. 1527.

I do, however, take this opportunity to commend you and Senator Stevens for the difficult task you have undertaken to reform the Federal retirement system. As the head of an Executive Agency, I am well aware of the great significance a sound retirement system has to every Federal agency's management system. In the particular case of CIA, the specifics of a retirement system weigh heavily on our ability to recruit and retain top notch people, on our ability to maintain a high degree of security, and on our ability to manage our personnel with the flexibility and effectiveness necessary to carry out our complex and difficult missions.

I would hope that the subject of a retirement program for the Central Intelligence Agency can be a matter of discussion between us at an early opportunity. Until that time, I ask that you keep us in mind as you proceed through your hearings on S. 1527. With best wishes.

Sincerely,

*WJ Casey*  
William J. Casey

Director of Central Intelligence



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1 - OLL Subject	"
1 - OLL Chrono	w/o enclosure

DD/OLL:ELS:mlg (6 September 1985)

~~SECRET~~  
Central Intelligence Agency



Washington, D.C. 20505

29 AUG 1985

OLL 85-2366/1

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Frey:

The Agency requests your office to review the enclosed draft, classified letter and advise us as to whether or not it is consistent with the President's legislative program.

The letter is in response to a request to the Agency by Senator Roth, Chairman of the Senate Committee on Governmental Affairs, for the Agency's views on S. 1527, the Civil Service Pension Reform Act of 1985.

We understand that the Committee plans action on this legislation when the Congress returns. We therefore ask that your review be completed and that you advise us of the results thereof at your earliest convenience.

Thank you for your assistance in this matter.

Sincerely,

/s/

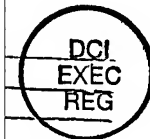
Charles A. Briggs  
Director, Office of Legislative Liaison

Enclosure  
as stated

UNCLASSIFIED WHEN SEPARATED  
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P-132

**Page Denied**

Next 9 Page(s) In Document Denied

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OLL85-2318  
7 August 1985

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division  
Office of Legislative Liaison

SUBJECT: Office of Management and Budget (OMB) Request  
for Agency Comments on S. 1527, Civil Service  
Pension Reform Act of 1985

1. Attached for your review and comment at Tab A is S. 1527, the "Civil Service Pension Reform Act of 1985". This bill was recently introduced by Senator Stevens and sets forth a proposed retirement program for those federal employees who began service after 31 December 1983. In order to prepare for hearings scheduled for early September on this bill, OMB has requested the Agency's views on this proposed legislation.

2. You will recall that the 1983 Social Security Act amendments brought federal employees hired after 31 December 1983 under the Social Security system, thus necessitating the development of a new supplemental retirement program for these individuals. Senator Stevens' attached bill contains a proposed retirement program for these individuals, as well as for pre-1983 employees participating in the Civil Service Retirement System who opt to join this new plan. This plan consists of three tiers. Social Security comprises the first tier, as all individuals participating in the plan will contribute to and be covered by Social Security. The second tier is a defined benefit plan in which one percent (1%) of an employee's high five years of salary is multiplied by the employee's years of service. The third tier is an optional thrift plan in which an individual can contribute up to ten percent (10%) of his salary into an IRA-like account with corresponding tax benefits.

3. To receive an unreduced annuity under S. 1527, an employee must be 62 years of age with five years of service. Individuals retiring before age 62 under the plan will receive a reduced annuity. For individuals retiring voluntarily at age 55 with 30 years of service, this reduction is two percent (2%) for each year the participant is under age 62. For an employee retiring at age 55 with less than 30 years of service, a reduction of five percent

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(5%) for each year under age 62 is applied. The plan does provide for an annuity without reduction for certain special retirement classes (law enforcement officers, fire fighters or air traffic controllers) retiring before age 62, provided they have completed 25 years of service in their occupation. While these special retirement class individuals will be eligible to retire at any age, retirement benefits drawn before age 55 will be reduced by five percent (5%) a year under age 55.

4. With respect to the funding for the defined benefit plan, the full cost of the plan is to be borne by the Government with employees making no contributions to the plan. Section 8418 of the bill provides that each federal agency shall contribute an amount equal to the normal cost of the benefits for the agency's employees as determined by OPM, which contribution shall be paid from the appropriations or funds available to such agencies to pay the basic pay or other salaries of participants. Any portion of the plan determined to be under-funded will trigger amortized payments from the U.S. Treasury over a 30-year period.

5. With respect to the optional thrift plan, section 8421 permits individuals to invest up to ten percent (10%) of their basic pay in the thrift plan. Employing agencies are required to match the participants' payment up to five percent (5%) of the participants' basic pay. Depending upon the amount of risk an individual wishes to incur, these funds may be invested in either a government securities investment fund, a guaranteed investment fund, or a common stock investment fund. To assist career planning and maximum flexibility, employees are permitted to roll over this thrift investment into an IRA upon their separation from Government. This feature, when combined with the portability of Social Security, is intended to increase "the options of each Federal employee" and to "enhance portability of retirement assets between federal jobs and jobs outside the Federal Government".

6. Senator Stevens' attached plan also addresses disability and survivor benefits, the transition between this new program and the current Civil Service Retirement System, and the establishment of a new Civil Service Thrift Investment Board to administer the optional thrift plan. To assist in your review of S. 1527, a sectional analysis of the bill is attached at Tab B for your review.

7. One other final item of note is the absence of an explicit integration of the defined benefit plan with Social Security under Senator Stevens' program. Because Social Security redistributes income to lower wage earners, most private pension plans redistribute the pension benefit in the other direction to compensate for this Social Security tilt. Senator Stevens' bill does not provide for this same redistribution, but instead preserves this Social Security tilt in favor of lower income wage earners.



8. I would appreciate receiving your comments on the attached bill by Wednesday 14 August 1985.

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Attachments:

Tab A - S. 1527

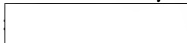
Tab B - Sectional Analysis of S. 1527

Distribution:

Original - OLL/LEG:Subject: Retirement (w/o enclosure)

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OLL/LEG  pap (7 August 1985)

# EXECUTIVE SECRETARIAT ROUTING SLIP

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8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OLL	X (W/Atchs)			
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15	VC/NIC				
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SUSPENSE 28 Aug 85  
Date

Remarks

To # 13: Pls have response prepared for  
DCI signature.

STAT

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10 Aug 85  
Date

3637 (10-81)



TED STEVENS, ALASKA  
CHARLES McC. MATHIAS, JR., MARYLAND  
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DAVID DURENBERGER, MINNESOTA  
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JOHN M. DUNCAN, STAFF DIRECTOR  
MARGARET P. CRENSHAW, MINORITY STAFF DIRECTOR

## United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510

Executive Registry

65-~~2030~~ 3167

August 2, 1985

The Honorable William J. Casey  
Director of Central Intelligence  
Washington, D.C. 20505

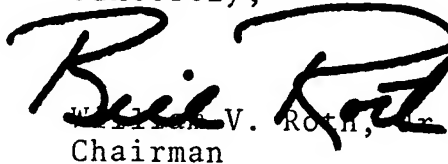
Dear Mr. Casey:

The Senate Committee on Governmental Affairs will hold three days of hearings in September on S. 1527, the Civil Service Pension Reform Act, introduced July 30, 1985, by Senator Stevens and myself. Senator Stevens will be chairing these hearings to be held on September 9, 10, and 11.

Because of your interest in this subject, we would appreciate having your written comments on this legislation for our hearing record. A copy of the bill and related documents are enclosed.

Thank you for your consideration. We look forward to hearing from you.

Sincerely,

  
William V. Roth, Jr.  
Chairman

Enclosures

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99th CONGRESS  
1st Session

S. -----

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IN THE SENATE OF THE UNITED STATES

Mr. Stevens (for himself and Mr. Roth) introduced the following bill; which was read twice and referred to the Committee on -----  
-----

-----  
A BILL

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

1 Be it enacted by the Senate and House of Representatives  
2 of the United States of America in Congress assembled,  
3 That this Act may be cited as the "Civil Service Pension  
4 Reform Act of 1985".

5 PURPOSES

6 Sec. 2. The purposes of this Act are--

- 7 (1) to provide Federal employees with a retirement  
8 benefits plan which is comparable to good private sector  
9 retirement benefits plans;  
10 (2) to promote financial stability and flexibility  
11 for the future of each Federal employee;  
12 (3) to ensure a fully funded and financially sound

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1 Federal Government retirement benefits plan;

2 (4) to enhance portability of retirement assets  
3 between Federal jobs and jobs outside the Federal  
4 Government;

5 (5) to increase the options of each Federal employee  
6 with respect to retirement benefits plans;

7 (6) to encourage Federal employees to increase  
8 personal savings for retirement;

9 (7) to include Federal employees in the investment  
10 decisionmaking process with respect to the assets of the  
11 retirement system; and

12 (8) to extend financial protection from disability to  
13 additional Federal employees and to increase such  
14 protection for eligible Federal employees.

15 TITLE I--CIVIL SERVICE PENSION SYSTEM

16 ESTABLISHMENT

17 Sec. 101. (a) Title 5, United States Code, is amended by  
18 inserting after chapter 83 the following new chapter:

19 ``CHAPTER 84--CIVIL SERVICE PENSION SYSTEM

``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

``Sec.

``8401. Definitions.

``8402. Civil Service Pension System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement to immediate retirement.

``8412. Entitlement to deferred retirement.

``8413. Computation of annuity.

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- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of payments.
- ``8417. Level benefits option.
- ``8418. Funding.
- ``8419. Funding of annuity attributable to military service.

#### ``SUBCHAPTER III--THRIFT SAVINGS PLAN

- ``8421. Contributions.
- ``8422. Vesting.
- ``8423. Entitlement and elections relating to entitlement.
- ``8424. Annuities: methods of payment; election; and computation.
- ``8425. Administrative provisions relating to payments and elections.
- ``8426. Thrift Savings Fund.
- ``8427. Investment of Thrift Savings Fund.
- ``8428. Accounting.

#### ``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.
- ``8432. Basic plan spousal and insurable interest benefits relating to the death of an annuitant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity.
- ``8435. Survivor benefits for former spouses: entitlements; amount.
- ``8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- ``8437. Termination of entitlement.
- ``8438. Deposits to the Fund.

#### ``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.
- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. Military reserve technicians.

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- ``8450. Administrative provisions.
- ``8451. Annual accounting; special contingency reserve.
- ``8452. Federal Employees' Disability Insurance Fund.

``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8461. Authority of the Office of Personnel Management.
- ``8462. Cost-of-living adjustment in basic plan annuities and survivor annuities.
- ``8463. Rate of benefits.
- ``8464. Commencement and termination of annuities.
- ``8465. Waiver, allotment, and assignment of benefits.
- ``8466. Application for benefits.
- ``8467. Court orders.
- ``8468. Annuities and pay on reemployment.

``SUBCHAPTER VII--TRANSITION PROVISIONS

- ``8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
- ``8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
- ``8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.
- ``8474. Reemployed annuitants under the Civil Service Retirement and Disability System.
- ``8475. Exemption from certain offset provisions of the Social Security Act.
- ``8476. Regulations.

``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

- ``8491. Civil Service Thrift Investment Board.
- ``8492. Civil Service Thrift Advisory Committee.
- ``8493. Executive Director.
- ``8494. Investment policy.
- ``8495. Administrative provisions.
- ``8496. Fiduciary responsibilities; liability and penalty.

1 ``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

2 ``S-8401. Definitions

- 3 ``Except as otherwise provided in this chapter, for the
- 4 purposes of this chapter--

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1       “(1) the term ‘account’, when used with respect to a  
2 participant or annuitant, means an account established  
3 and maintained under section 8428(a) of this title;

4       “(2) the term ‘annuitant’ means a former participant  
5 who is entitled to an annuity under this chapter and who  
6 has applied under this chapter for the payment of the  
7 annuity to commence;

8       “(3) the term ‘average pay’, when used with respect  
9 to a participant, means the largest annual rate resulting  
10 from averaging the participant’s rates of basic pay in  
11 effect over any 5 consecutive years of creditable service  
12 or, in the case of an annuity under this chapter based on  
13 service of less than 5 years, over the total service,  
14 with each rate weighted by the period it was in effect;

15       “(4) the term ‘basic pay’, when used with respect to  
16 a participant--

17       “(A) means the lesser of--

18               “(1) the basic pay of the participant  
19 established pursuant to law, without regard to  
20 any provision of law (except sections 5308 and  
21 5302(b) of this title) limiting the rate of pay  
22 actually payable in any pay period (including any  
23 provision of law restricting the use of  
24 appropriated funds); or

25               “(11) the rate of basic pay payable for



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1 level I of the Executive Schedule; and

2 "(B) includes the items described in

3 subparagraphs (A) through (D) of paragraph (3) of

4 section 8331 of this title and does not include the

5 items excluded by such paragraph;

6 "(5) the term 'Board' means the Civil Service Thrift

7 Investment Board established by section 8491(a) of this

8 title;

9 "(6) the term 'Civil Service Retirement and

10 Disability Fund' means the Civil Service Retirement and

11 Disability Fund referred to in section 8348 of this

12 title;

13 "(7) the term 'court', when used with respect to a

14 judgment, decree, order, or other judicial action, means

15 any court of the United States, a State, the District of

16 Columbia, the Commonwealth of Puerto Rico, or a territory

17 or possession of the United States, or any Indian court,

18 having jurisdiction to issue such judgment, decree, or

19 order or to take such other judicial action;

20 "(8) the term 'Director' means the Director of the

21 Office of Personnel Management;

22 "(9) the term 'dynamic assumptions' means economic

23 assumptions that are used in determining actuarial costs

24 and liabilities of a retirement system and in

25 anticipating the effects of long-term future--

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1           ''(A) investment yields,

2           ''(B) increases in rates of basic pay, and

3           ''(C) rates of price inflation;

4           ''(10) the term 'earnings', when used with respect to  
5 the Thrift Savings Fund, means the amount of the gain  
6 realized or yield received from the investment of sums in  
7 such fund;

8           ''(11) the term 'eligible former spouse', when used  
9 with respect to a participant or former participant,  
10 means a former spouse of the participant or former  
11 participant who was married to the participant or former  
12 participant for at least 9 months;

13           ''(12) the term 'employee' means--

14           ''(A) each individual referred to in  
15 subparagraphs (A), (E), (F), (H), (I), and (J) of  
16 section 8331(1) of this title, including an employee  
17 of the United States Park Police and an employee of  
18 the United States Secret Service; and

19           ''(B) a Congressional employee as defined in  
20 section 2107 of this title, including a temporary  
21 Congressional employee;

22 any of whose service after December 31, 1983, is  
23 employment for the purposes of title II of the Social  
24 Security Act and chapter 21 of the Internal Revenue Code  
25 of 1954, except that such term does not include any

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1 individual referred to in clause (i), (ii), (v), (vi), or  
2 (ix) of paragraph (1) of section 6331 of this title or in  
3 the undesignated material after clause (ix) of such  
4 paragraph, any individual excluded under section  
5 8402(b)(2) of this title, or any individual who was  
6 subject to subchapter III of chapter 83 of this title on  
7 December 31, 1983, and has not commenced participation in  
8 the System pursuant to section 8471 of this title;

9 "(13) the term 'Executive Director' means the  
10 Executive Director appointed under section 8493(a)(1) of  
11 this title;

12 "(14) the term 'firefighter' means an employee the  
13 duties of whose position--

14 "(A) are primarily to perform work directly  
15 connected with the control and extinguishment of  
16 fires; and

17 "(B) are sufficiently rigorous that employment  
18 opportunities are required to be limited to young and  
19 physically vigorous individuals, as determined by the  
20 Director considering the recommendation of the  
21 employing agency;

22 "(15) the term 'Fund' means the Civil Service  
23 Retirement and Disability Fund;

24 "(16) the term 'Government' means the Federal  
25 Government and Gallaudet College;

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1       “(17) the term ‘law enforcement officer’ means an  
2 employee, the duties of whose position--

3       “(A) are primarily (i) the investigation,  
4 apprehension, or detention of individuals suspected  
5 or convicted of offenses against the criminal laws of  
6 the United States, or (ii) the protection of  
7 officials of the United States against threats to  
8 personal safety; and

9       “(B) are sufficiently rigorous that employment  
10 opportunities are required to be limited to young and  
11 physically vigorous individuals, as determined by the  
12 Director considering the recommendation of the  
13 employing agency;

14       “(18) the term ‘loss’, when used with respect to the  
15 Thrift Savings Fund, means the amount of the loss  
16 realized from the investment of sums in such fund;

17       “(19) the term ‘lump-sum credit’ has the same  
18 meaning as provided by section 8331(8) of this title;

19       “(20) the term ‘Member’ has the same meaning as  
20 provided in section 2106 of this title, except that such  
21 term does not include a person who (A) was a Member of  
22 Congress on December 31, 1983, and (B) has not commenced  
23 participation in the System pursuant to section 8471 of  
24 this title;

25       “(21) the term ‘military reserve technician’ means a

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1 member of one of the reserve components of the Armed  
2 Forces specified in section 261(a) of title 10 who--

3 "(A) is assigned to a civilian position as a  
4 technician in the administration and training of such  
5 reserve components or in the maintenance and repair  
6 of supplies issued to such reserve components; and

7 "(B) as a condition of employment in such  
8 position, is required to be a member of one of such  
9 reserve components serving in a specified military  
10 grade;

11 "(22) the term 'net earnings' means the excess of  
12 earnings over losses;

13 "(23) the term 'net losses' means the excess of  
14 losses over earnings;

15 "(24) the term 'normal cost' means the entry-age  
16 normal cost of the provisions of the System which relate  
17 to the Fund, computed by the Office in accordance with  
18 generally accepted actuarial practice and standards  
19 (using dynamic assumptions) and expressed as a level  
20 percentage of aggregate basic pay;

21 "(25) the term 'Office' means the Office of  
22 Personnel Management;

23 "(26) the term 'participant' means an employee or  
24 Member or a person who is receiving disability benefits  
25 under subchapter V of this chapter;

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1       “(27) the term ‘price index’ has the same meaning as  
2 provided in section 8331(15) of this title;

3       “(28) the term ‘service’, when used with respect to  
4 a participant or former participant, means--

5           “(A) employment as a participant;

6           “(B) subject to section 8419(a) of this title,  
7 military service as provided in section 8332(c) of  
8 this title; and

9           “(C) service that is creditable under subchapter  
10 III of chapter 83 of this title, but only to the  
11 extent provided in section 8472(a) of this title;

12       “(29) the term ‘supplemental liability’ means the  
13 estimated excess of--

14           “(A) the actuarial present value of all future  
15 benefits payable from the Fund under this chapter,  
16 over

17           “(B) the sum of--

18               “(i) the actuarial present value of the  
19 future contributions to be made on behalf of  
20 participants pursuant to section 8418(a) of this  
21 title; and

22               “(ii) the balance in the Fund attributable  
23 to the System on the date the supplemental  
24 liability is determined; and

25       “(30) the term ‘System’ means the Civil Service

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1 Pension System described in section 8402(a) of this  
2 title.

3 ``S 8402. Civil Service Pension System; participation

4 ``(a) The provisions of this chapter comprise the Civil  
5 Service Pension System.

6 ``(b)(1) Except as provided in paragraph (2) of this  
7 subsection, each employee and Member shall be a participant  
8 in the System.

9 ``(2)(A) The Office may exclude from the operation of  
10 this chapter an employee or group of employees in or under an  
11 Executive agency whose employment is temporary or  
12 intermittent, except an employee whose employment is part-  
13 time career employment (as defined in section 3401(2) of this  
14 title).

15 ``(B) The Architect of the Capitol may exclude from the  
16 operation of this chapter an employee under the Office of the  
17 Architect of the Capitol whose employment is temporary or of  
18 uncertain duration.

19 ``(C) The Librarian of Congress may exclude from the  
20 operation of this chapter an employee under the Library of  
21 Congress whose employment is temporary or of uncertain  
22 duration.

23 ``S 8403. Relationship to the Social Security Act

24 ``Except as otherwise provided in this chapter, the  
25 benefits payable under the System are in addition to the

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1 benefits payable under the Social Security Act.

2           ``SUBCHAPTER II--BASIC PLAN

3    ``S 8411. Entitlement to immediate retirement

4       ``(a) An employee or a Member who is separated from  
5 Government employment after becoming 55 years of age and  
6 completing 10 years of service is entitled to an immediate  
7 annuity.

8       ``(b) An employee or a Member who is separated from  
9 Government employment after becoming 62 years of age and  
10 completing 5 years of service is entitled to an immediate  
11 annuity.

12       ``(c) An employee who is separated from Government  
13 employment after completing 25 years of service as a law  
14 enforcement officer or firefighter, or any combination of  
15 such service totaling at least 25 years, is entitled to an  
16 immediate annuity.

17       ``(d) An employee who is separated from Government  
18 employment after completing 25 years as an air traffic  
19 controller is entitled to an immediate annuity.

20       ``(e)(1) Except as provided in paragraphs (2) and (3) of  
21 this subsection, any employee who has completed 25 years of  
22 service, or is not less than 50 years of age and has  
23 completed 20 years of service, and who--

24           ``(A) is separated from Government employment  
25       involuntarily, except by removal for cause on charges of



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1 misconduct or delinquency, or

2       “(B) while serving in a geographic area designated  
3 by the Director, is voluntarily separated from Government  
4 employment during a period that (as determined by the  
5 Director)--

6       “(1) the agency in which the employee is serving  
7 is undergoing a major reorganization, a major  
8 reduction in force, or a major transfer of function,  
9 and

10       “(11) a significant percentage of the total  
11 number of employees serving in such agency will be  
12 separated or subject to an immediate reduction in the  
13 rate of basic pay (without regard to subchapter VI of  
14 chapter 53 of this title or comparable provisions),  
15 is entitled to an immediate annuity.

16       “(2) An employee described in paragraph (1)(A) of this  
17 subsection is not entitled to an annuity under this  
18 subsection if the employee has declined a reasonable offer of  
19 another position in the employee's agency for which the  
20 employee is qualified and the offered position is not lower  
21 than 2 grades or pay levels below the employee's grade or pay  
22 level and is within the employee's commuting area.

23       “(3) Paragraph (1) of this subsection shall not apply to  
24 a firefighter, law enforcement officer, or air traffic  
25 controller who has completed 25 years of service.

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1       “(f) An annuity authorized by this section is computed  
2 under sections 8413 through 8415 of this title.

3       “§ 8412. Entitlement to deferred retirement

4       “(a) A participant who is under 55 years of age and  
5 separates from Government employment after completing 10  
6 years of service is entitled to an annuity to commence on or  
7 after the date the participant becomes 55 years of age but  
8 not later than the date the participant becomes 62 years of  
9 age, as elected by the participant under rules prescribed by  
10 the Office.

11       “(b) A participant who is under 62 years of age and  
12 separates from Government employment after completing 5 years  
13 of service and before completing 10 years of service is  
14 entitled to an annuity to commence on the date the  
15 participant becomes 62 years of age.

16       “(c) An annuity authorized by this section is computed  
17 under sections 8413 through 8415 of this title.

18       “§ 8413. Computation of annuity

19       “(a)(1) Except as provided in section 8414 or 8415 of  
20 this title, the amount of the annuity an annuitant is  
21 entitled to receive under this subchapter shall be equal to  
22 the product of 1 percent of the former participant's average  
23 pay (while serving as an employee or Member) multiplied by  
24 the participant's total service.

25       “(2) For the purposes of computing the amount of an

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1 annuity under paragraph (1) of this subsection, the total  
2 service of a participant who separates from Government  
3 employment entitled to an immediate annuity or who dies  
4 leaving a survivor or survivors entitled to a survivor  
5 annuity under this chapter includes days of unused sick leave  
6 credited to the participant under a formal leave system to  
7 the same extent that unused sick leave is credited in  
8 computing an annuity of a person who is subject to subchapter  
9 III of chapter 93 of this title, as provided in section  
10 8339(m) of this title.

11     “(b)(1) A former participant who is entitled to receive  
12 an annuity under subsection (c) or (d) of section 8411 of  
13 this title and is at least 55 years of age and not more than  
14 62 years of age shall be entitled to receive an annuity  
15 supplement, in addition to the amount of the annuity computed  
16 under subsection (a) of this section, while the former  
17 participant is under 62 years of age.

18     “(2) The amount of the annuity supplement payable to a  
19 former participant under paragraph (1) of this subsection  
20 shall be equal to the estimated amount of the benefits that--

21     “(A) the former participant would be entitled to  
22 receive under title II of the Social Security Act if the  
23 participant were 62 years of age on the date the annuity  
24 referred to in such paragraph commences; and

25     “(B) is attributable to service referred to in

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1 section 8411(c) or 8411(d) of this title, as the case may  
2 be,  
3 computed on the date such annuity commences and increased as  
4 provided in paragraph (3) of this subsection.

5 "(3) Effective on January 1 of each year, the amount of  
6 the annuity supplement payable to a former participant under  
7 this subsection shall be increased by the percentage  
8 increase, if any, in the SSA average wage index (as defined  
9 in section 215(1)(1)(G) of the Social Security Act) published  
10 for November of the preceding year over such index published  
11 for November of the next preceding year.

12 "(c) In computing under this section the annuity of an  
13 individual who has performed service on less than a full-time  
14 basis, such service shall be credited on a proportional basis  
15 equal to the fraction that such service is of full-time  
16 service, and the annual rate of basic pay that would be  
17 payable for full-time service in the position shall be deemed  
18 to be the rate of basic pay.

19 "\$ 8414. Reduction for early retirement

20 "The annuity computed under section 8413(a) of this  
21 title (without regard to this section or section 8415 of this  
22 title)--

23 "(1) for an annuitant, other than an annuitant  
24 referred to in paragraph (2) or (3) of this section, who  
25 is under 62 years of age on the date on which the

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1 annuitant's annuity commences shall be reduced by one-  
2 sixth of 1 percent for each month that the annuitant is  
3 under such age on such date;

4 "(2) for an annuitant, other than an annuitant  
5 entitled to an immediate annuity under section 8411(e) of  
6 this title and an annuitant referred to in paragraph (3)  
7 of this subsection, who is at least 55 years of age and  
8 is under 62 years of age on the date on which the  
9 annuitant's annuity commences and has not completed 30  
10 years of service shall be reduced by five-twelfths of 1  
11 percent for each month that the annuitant is under 62  
12 years of age on such date; and

13 "(3) for an annuitant who is entitled to an  
14 immediate annuity under subsection (c) or (d) of section  
15 8411 of this title or who separated from Government  
16 employment as a military reserve technician shall be  
17 reduced by five-twelfths of 1 percent for each month that  
18 the annuitant is under 55 years of age on the date on  
19 which the annuitant's annuity commences.

20 "§ 8415. Reduction for survivor annuities

21 "(a) The annuity of an annuitant computed under section  
22 8413 of this title and, if appropriate, under section 8414 of

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1 this title shall be reduced by an estimated amount such that  
2 the actuarial present value of the retirement benefits  
3 expected to be payable to the annuitant under this subchapter  
4 and all survivor benefits expected to be payable out of the  
5 Fund with respect to the annuitant is equal to the actuarial  
6 present value of the retirement benefits that would be  
7 expected to be payable under this subchapter to the annuitant  
8 pursuant to the method referred to in section 8416(a)(2)(A)  
9 of this title, as determined under regulations prescribed by  
10 the Office.

11     “(b) A reduction in the annuity of an annuitant pursuant  
12 to subsection (a) of this section shall be adjusted, as  
13 appropriate to carry out such subsection, to reflect any  
14 change in circumstances relating to entitlement to a survivor  
15 annuity, including any election made pursuant to section  
16 8434(a), 8435(b), or 8435(c) of this title.

17     “§ 8416. Methods of Payment

18     “(a)(1) The Office shall prescribe methods of payment of  
19 annuities under this subchapter.

20     “(2) The methods of payment prescribed under paragraph  
21 (1) of this subsection shall include, but not be limited to--

22         “(A) a method which provides for the payment of a  
23 monthly annuity only to an annuitant during the life of  
24 the annuitant;

25         “(B) a method which provides for the payment of a

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1 monthly annuity to an annuitant and a monthly survivor  
2 annuity equal to 50 percent of the annuitant's annuity on  
3 the date of the annuitant's death (computed without  
4 regard to an election under section 8417(a) of this  
5 title) to the annuitant's surviving spouse, if any; and

6 "(C) a method which provides for the payment of a  
7 monthly annuity to an annuitant and a monthly survivor  
8 annuity equal to 50 percent of the annuitant's annuity on  
9 the date of the annuitant's death (computed without  
10 regard to an election under section 8417(a) of this  
11 title) to an individual who is designated by the  
12 annuitant and who has an insurable interest in the  
13 annuitant.

14 "(b)(1) Subject to paragraphs (2) and (3) of this  
15 subsection--

16 "(A) under such regulations as the Office shall  
17 prescribe, a participant or former participant who is  
18 applying for an annuity under this subchapter to commence  
19 shall elect one of the methods of payment prescribed by  
20 the Office under subsection (a) of this section; and

21 "(B) the annuity of an annuitant under this  
22 subchapter shall be paid in accordance with the method of  
23 payment elected by the annuitant pursuant to subparagraph  
24 (A) of this paragraph.

25 "(2)(A) A participant or former participant who is

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1 married on the date on which the participant or former  
2 participant applies for an annuity under this subchapter to  
3 commence may elect a method of payment other than the method  
4 described in subsection (a)(2)(B) of this section only if the  
5 participant or former participant and the spouse of the  
6 participant or former participant jointly waive a survivor  
7 annuity under the method described in such subsection  
8 (a)(2)(B).

9     “(B) A waiver shall not be effective for the purpose of  
10 subparagraph (A) of this paragraph unless the waiver is made  
11 in writing, is notarized, and is filed with the Office on or  
12 before the date the annuity to which the waiver relates  
13 commences.

14     “(C) A waiver made in accordance with this paragraph  
15 shall be irrevocable.

16     “(3) In the case of an annuitant who is subject to  
17 paragraph (2)(A) of this subsection and fails to make an  
18 election under paragraph (1) of this subsection, an annuity  
19 and survivor annuity shall be paid under the method of  
20 payment described in subsection (a)(2)(B) of this section.

21     “(4) A participant or former participant may elect the  
22 method prescribed under subsection (a)(2)(C) of this section  
23 only if the participant or former participant is in good  
24 health on the date the election is made, as determined by the  
25 Office.



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1    "§ 8417. Level benefits option

2       "(a) Under regulations prescribed by the Office, an  
3 annuity payable under this subchapter to a participant who is  
4 separating from Government employment entitled to an  
5 immediate annuity under subsection (a) of section 8411 of  
6 this title and is less than 62 years of age may be adjusted  
7 as provided in subsection (b) of this section, if elected by  
8 the participant on or before the date of separation.

9       "(b)(1) Subject to paragraph (2) of this subsection, an  
10 annuity payable under this subchapter to an annuitant who has  
11 made an election authorized by subsection (a) of this section  
12 may be increased during the period the annuitant is not less  
13 than 55 years of age and is less than 62 years of age and may  
14 be reduced on and after the date the annuitant is not less  
15 than 62 years of age as appropriate to provide the annuitant  
16 an annuity under this subchapter, during each month of such  
17 period, in an amount which approximately equals the total  
18 amount of the monthly benefits payable to the annuitant under  
19 this subchapter and section 202(a) of the Social Security Act  
20 after such date.

21       "(2) The actuarial present value of the benefits  
22 expected to be paid under this subchapter to the annuitant as  
23 provided in paragraph (1) of this subsection on and after the  
24 date the annuitant becomes 55 years of age may not exceed the  
25 actuarial present value of the benefits that would be

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1 expected to be paid under this subchapter to such participant  
2 on and after such date if the adjustments authorized by such  
3 paragraph were not made, as determined under regulations  
4 prescribed by the Office.

5 **§ 8418. Funding**

6 **“(a)(1)** Each agency of the Government employing a  
7 participant shall contribute to the Fund an amount equal to  
8 the sum of--

9 **“(A)** the normal cost, as determined by the Office,  
10 of (i) each participant who is employed by the agency,  
11 and (ii) each disabled participant who is entitled to  
12 benefits under section 8442(a) of this title and was  
13 employed by the agency on the date the participant became  
14 disabled (computed using average pay as increased in  
15 accordance with section 8442(b)(2)(C) of this title); and

16 **“(B)** the normal cost, as determined by the Office,  
17 of the annuity supplement under section 8413(b) of this  
18 title for each law enforcement officer, firefighter, and  
19 air traffic controller who is employed by the agency.

20 **“(2)** The contribution required by paragraph (1) of  
21 this subsection to be made by an agency shall be made  
22 from the appropriation or fund used to pay the agency's  
23 participants, or, in the case of an elected participant,  
24 from an appropriation or fund available for payment of  
25 other salaries of the office or establishment of the

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1 participant. In the case of a participant in the  
2 legislative branch who is paid by the Clerk of the House  
3 of Representatives, contributions for the benefit of such  
4 participant shall be paid from the contingent fund of the  
5 House of Representatives.

6 "(b)(1) The Office shall compute--

7 "(A) the amount of the supplemental liability of the  
8 Fund relating to participants and annuitants other than  
9 participants and annuitants referred to in subparagraph  
10 (B) of this paragraph, and

11 "(B) the amount of the supplemental liability of the  
12 Fund relating to participants and annuitants who are  
13 active or retired officers or employees of the United  
14 States Postal Service,

15 as of the close of each fiscal year beginning after September  
16 30, 1987.

17 "(2) The amounts of any supplemental liability--

18 "(A) computed pursuant to paragraph (1)(A) of this  
19 subsection with respect to participants and annuitants  
20 referred to in such paragraph (1)(A) of this subsection,  
21 and

22 "(B) computed pursuant to paragraph (1)(B) of this  
23 subsection with respect to participants and annuitants  
24 referred to in such paragraph (1)(B),  
25 shall each be amortized in thirty annual installments.

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1       “(3) At the end of each fiscal year, the Office shall  
2 notify--

3           “(A) the Secretary of the Treasury of the amount of  
4 the annual installment computed under paragraph (2)(A) of  
5 this subsection for such fiscal year, and

6           “(B) the Postmaster General of the United States of  
7 the amount of the annual installment computed pursuant to  
8 paragraph (2)(B) of this subsection for such fiscal year.

9       “(4)(A) Before closing the accounts for a fiscal year,  
10 the Secretary of the Treasury shall credit the amount of the  
11 annual installment computed for such fiscal year pursuant to  
12 paragraph (2)(A) to the Fund, as a Government contribution,  
13 out of any money in the Treasury of the United States not  
14 otherwise appropriated.

15       “(B) Upon receiving a notice required by paragraph  
16 (3)(B) of this subsection, the United States Postal Service  
17 shall pay to the Fund the amount of the annual installment  
18 specified in the notice.

19       “(5) For the purpose of carrying out paragraph (1) of  
20 this subsection with respect to any fiscal year, the Office  
21 may--

22           “(A) require the Board of Actuaries of the Civil  
23 Service Retirement System to make actuarial  
24 determinations and valuations, make recommendations, and  
25 maintain records in the same manner as provided in

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1 section 8347(f) of this title; and

2 "(B) may use the latest actuarial determinations and  
3 valuations made by such Board of Actuaries.

4 "§ 8419. Funding of annuity attributable to military service

5 "(a) Except in the case of an individual making an  
6 election under section 8471(a)(1)(A) of this title, a  
7 participant's or former participant's service shall include  
8 credit for military service as provided in section 8332(c) of  
9 this title without regard to whether the participant or  
10 former participant has made a deposit covering such military  
11 service as provided in section 8334(j) of this title.

12 "(b) Before closing the accounts for a fiscal year, the  
13 Secretary of the Treasury shall reimburse the Fund from sums  
14 in the Department of Defense Military Retirement Fund  
15 (established by section 1461(a) of title 10), which are  
16 hereby made available to pay the reimbursement, for the  
17 normal cost relating to the creditable military service of  
18 employees and Members who became participants during such  
19 fiscal year, actuarially adjusted to the date of payment, as  
20 determined by the Office.

21 "(c) At the end of each fiscal year the Office shall  
22 compute the amount of the reimbursement required by  
23 subsection (b) of this section for the fiscal year and shall  
24 notify the Secretary of the Treasury of that amount.

25 "SUBCHAPTER III--THRIFT SAVINGS PLAN

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1    "§ 8421. Contributions

2       "(a)(1) Each participant may contribute to the Thrift  
3 Savings Fund in any year an amount not exceeding 10 percent  
4 of the participant's annual rate of basic pay.

5       "(2) Each participant receiving disability benefits  
6 under subchapter V of this chapter may, until becoming 62  
7 years of age (in the case of a person who is disabled within  
8 the meaning of section 8441(4)(A) of this title) or until  
9 becoming 55 years of age (in the case of a person who is  
10 disabled within the meaning of section 8441(4)(B) of this  
11 title), contribute to the Thrift Savings Fund in any year an  
12 amount not exceeding 10 percent of the amount of the former  
13 participant's disability benefits payable under such  
14 subchapter during such year.

15       "(3) Any contribution under this subsection shall be  
16 made only pursuant to a program of regular contributions  
17 under regulations prescribed by the Board.

18       "(4) At least once each year, a participant may modify  
19 the amount contributed pursuant to paragraph (1) or (2) of  
20 this subsection, as the case may be, under regulations  
21 prescribed by the Board.

22       "(b) The employing agency of a participant who  
23 contributes to the Thrift Savings Fund under subsection (a)  
24 of this section for any pay period, or, in the case of a  
25 disabled participant who contributes to such fund under such

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1 subsection for any disability benefits payment period, the  
2 employing agency of the participant on the date the  
3 participant became disabled (as defined in section 8441(4) of  
4 this title), shall contribute to the Thrift Savings Fund for  
5 the benefit of such participant or disabled participant at  
6 the end of such period an amount equal to such portion of the  
7 amount of the participant's contribution as does not exceed 5  
8 percent of the amount of the gross pay or gross disability  
9 benefits, as the case may be, payable for such period.

10     “(c) The sums required to be contributed to the Thrift  
11 Savings Fund by an employing agency under subsection (b) of  
12 this section for the benefit of a participant shall be paid  
13 from the appropriations or funds available to such agency to  
14 pay the basic pay of participants or, in the case of an  
15 elected participant, from an appropriation or fund available  
16 for payment of other salaries of the participant's office or  
17 establishment. In the case of a participant in the  
18 legislative branch who is paid by the Clerk of the House of  
19 Representatives, contributions for the benefit of such  
20 participant shall be paid from the contingent fund of the  
21 House of Representatives.

22     “(d) For purposes of the Internal Revenue Code of 1954--  
23     “(1) any amount of the participant's pay which is  
24 contributed to the Thrift Savings Fund, and the amount of  
25 the employing agency's matching contributions, shall not

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1 be included in the gross income of the participant; and  
2 "(2) the Thrift Savings Fund shall be treated, for  
3 purposes of determining when amounts in such Fund are  
4 included in the income of any participant, as described  
5 in section 401(a) of such Code.

6 "(e) Subsection (d)(1) of this section shall not be  
7 construed to provide that any amount of the participant's pay  
8 which is contributed to the Thrift Savings Fund shall not be  
9 included in the term 'wages' for purposes of section 209 of  
10 the Social Security Act or section 3121(a) of the Internal  
11 Revenue Code of 1954.

12 "§ 8422. Vesting

13 "(a)(1) A participant who separates from Government  
14 employment shall be entitled to an amount equal to--

15 "(A) the total amount of the contributions made  
16 under section 8421(a) of this title plus the total amount  
17 of the net earnings in the Thrift Savings Fund, or minus  
18 the total amount of the net losses, attributable to such  
19 contributions; and

20 "(B) the applicable percentage of the amount equal  
21 to the total amount contributed to the Thrift Savings  
22 Fund for the benefit of the participant under section  
23 8421(b) of this title plus the total amount of the net  
24 earnings in the Thrift Savings Fund, or minus the total  
25 amount of the net losses, attributable to such



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1 contributions, as provided in subsection (b) of this  
2 section.

3 "(2) The amount to which a participant is entitled under  
4 paragraph (1) of this subsection shall be payable in  
5 accordance with the election made by the participant pursuant  
6 to section 8423 of this title.

7 "(b)(1) For the purpose of subsection (a)(1)(B) of this  
8 section, except as provided in paragraph (2) of this  
9 subsection, the applicable percentage for a participant  
10 separating from Government employment after having been a  
11 participant in the System for a period set forth under column  
12 I of the table below is the percentage set forth under column  
13 II of the table below opposite the description of such  
14 period:

Column IColumn II

Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 1 year. . . . .	0
Not less than 1 year, but less than 2 years . . . . .	20
Not less than 2 years, but less than 3 years. . . . .	40
Not less than 3 years, but less than 4 years. . . . .	60
Not less than 4 years, but less than 5 years. . . . .	80
Not less than 5 years . . . . .	100.

15 "(2) For the purposes of subsection (a)(1)(B) of this  
16 section--

17 "(A) the percentage applicable in the case of any  
18 participant who dies while employed by the Government  
19 shall be 100 percent; and

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1       “(B) in the case of a participant making  
2       contributions under section 8421(a)(2) of this title, the  
3       period for which the person has been a participant in the  
4       System shall include periods for which such contributions  
5       were made.

6       “(C) When an election is made by a participant under  
7       section 8423(c) of this title, the amount equal to the excess  
8       of--

9       “(1) the sum of--

10       “(A) the amounts contributed to the Thrift  
11       Savings Fund with respect to the participant under  
12       section 8421 of this title; and

13       “(B) the net earnings in the Thrift Savings Fund  
14       attributable to such contributions, over

15       “(2) the amount in the Thrift Savings Fund paid or  
16       reserved for payment to or with respect to the  
17       participant pursuant to section 8423(c) of this title,  
18       shall be transferred to the Treasury of the United States for  
19       credit to Miscellaneous Receipts.

20       “§ 8423. Entitlement and elections relating to entitlement

21       “(a) Any participant who separates from Government  
22       employment entitled to an immediate annuity under section  
23       8411 of this title is entitled and may elect--

24       “(1) to receive an immediate annuity from the Thrift  
25       Savings Fund;

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1           "(2) to defer the commencement of the payment of an  
2 annuity from the Thrift Savings Fund until such date as  
3 the participant specifies;

4           "(3) to withdraw, in one or more payments, the  
5 amount of the balance credited to the participant's  
6 account in the Thrift Savings Fund; or

7           "(4) to transfer the amount of the balance in the  
8 account to an individual retirement account or other  
9 qualified plan (within the meaning of the Internal  
10 Revenue Code of 1954) of the participant.

11          "(D) Any participant who separates from Government  
12 employment entitled to a deferred annuity under section 3412  
13 of this title is entitled and may elect--

14           "(1) to receive an annuity from the Thrift Savings  
15 Fund to commence on the first date the participant is  
16 entitled to receive the deferred annuity;

17           "(2) to defer the commencement of the payment of an  
18 annuity from the Thrift Savings Fund until a date after  
19 the first date the participant is entitled to receive the  
20 deferred annuity, as specified by the participant;

21           "(3) to withdraw in one or more payments, on or  
22 after the first date the participant is entitled to  
23 receive the deferred annuity, the amount of the balance  
24 credited to the participant's account in the Thrift  
25 Savings Fund; or

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1       “(4) to transfer the amount of the balance in the  
2       account to an individual retirement account or other  
3       qualified plan (within the meaning of the Internal  
4       Revenue Code of 1954) of the participant.

5       “(c) Any participant who separates from Government  
6       employment before becoming entitled to an annuity under  
7       section 8411 or 9412 of this title is entitled and may  
8       elect--

9       “(1) to receive an annuity from the Thrift Savings  
10       Fund to commence when the participant becomes 62 years of  
11       age;

12       “(2) to withdraw, in one or more payments, the  
13       amount computed under section 8422(a)(1) of this title,  
14       payable when the participant becomes 62 years of age; or

15       “(3) to transfer such amount to an individual  
16       retirement account or other qualified plan (within the  
17       meaning of the Internal Revenue Code of 1954) of the  
18       participant.

19       “(d)(1) Subject to paragraph (2) of this subsection, any  
20       participant making an election pursuant to subsection (a)(2)  
21       or (b)(2) of this section may modify the date specified in  
22       the election or in a previous modification under this  
23       subsection.

24       “(2) Any modification of an election under paragraph (1)  
25       of this subsection may not be made on or after the date

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1 specified in the election or the latest modification made  
2 under such paragraph and may not specify a date for the  
3 commencement of annuity payments earlier than one month after  
4 the date the modification is filed with the Executive  
5 Director.

6 "S 8424. Annuities: methods of payment; election; and  
7 computation

8 "(a)(1) The Board shall prescribe methods of payment of  
9 annuities under this subchapter.

10 "(2) The methods of payment prescribed under paragraph  
11 (1) of this subsection shall include, but not be limited to--

12 "(A) a method which provides for the payment of a  
13 monthly annuity only to an annuitant during the life of  
14 the annuitant;

15 "(B) a method which provides for the payment of a  
16 monthly annuity to an annuitant for the joint lives of  
17 the annuitant and the spouse of the annuitant and an  
18 appropriate monthly annuity to the one of them who  
19 survives the other of them for the life of the survivor;

20 "(C) a method described in subparagraph (A) of this  
21 paragraph which provides annual increases in the amount  
22 of the annuity payable;

23 "(D) a method described in subparagraph (B) of this  
24 paragraph which provides annual increases in the amount  
25 of the annuity payable; and

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1       “(E) a method providing for the payment of a monthly  
2 annuity--

3       “(1) to the annuitant for the joint lives of the  
4 annuitant and an individual, designated by the  
5 annuitant under regulations prescribed by the Board,  
6 who has an insurable interest in the annuitant; and  
7       “(11) to the one of them who survives the other  
8 of them for the life of the survivor.

9       “(b) Subject to paragraph (2) of this subsection, under  
10 such regulations as the Board shall prescribe, an annuitant  
11 electing under section 8423 of this title to receive an  
12 annuity from the Thrift Savings Fund shall elect, on or  
13 before the date on which the annuitant's annuity under this  
14 subchapter commences, one of the methods of payment  
15 prescribed by the Board under subsection (a) of this section.

16       “(c) The amount of an annuity payable under this  
17 subchapter pursuant to the method elected under subsection  
18 (b) of this section shall be determined on an actuarial basis  
19 under regulations prescribed by the Board.

20       “§ 8425. Administrative provisions relating to payments and  
21 elections

22       “(a) The Executive Director shall make or provide for  
23 payments and transfers in accordance with an election of a  
24 participant under section 8423 or 8424(b) of this title.

25       “(b) Any election under section 8423 or 8424(b) of this

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1 title shall be in writing and shall be filed with the  
2 Executive Director in accordance with regulations prescribed  
3 by the Board.

4 "(c) Notwithstanding any other provision of this  
5 section, an election or modification of an election under any  
6 provision of this subchapter shall not be effective if the  
7 election or modification would result in a violation of the  
8 terms of an applicable court decree of divorce, annulment, or  
9 legal separation, or the terms of any court order or court-  
10 approved property settlement agreement incident to a court  
11 decree of divorce, annulment, or legal separation, as  
12 determined by the Executive Director.

13 "§ 8426. Thrift Savings Fund

14 "(a) There is established in the Treasury of the United  
15 States a Thrift Savings Fund.

16 "(b) The Thrift Savings Fund consists of the sum of all  
17 amounts contributed under section 8421 of this title  
18 increased by the total net earnings from investments of sums  
19 in the Thrift Savings Fund or reduced by the total net losses  
20 from investments of the Thrift Savings Fund.

21 "(c) The sums in the Thrift Savings Fund are  
22 appropriated and shall remain available without fiscal year  
23 limitation--

24 "(1) to invest under section 8427 of this title;

25 "(2) to pay benefits under this subchapter;

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1       “(3) to pay the administrative expenses of the Civil  
2       Service Thrift Investment Management System prescribed in  
3       subchapter VIII of this chapter; and

4       “(4) to make loans to participants as authorized  
5       under subsection (e) of this section.

6       “(d)(1) Except as provided in paragraph (2) of this  
7       subsection, sums in the Thrift Savings Fund are not subject  
8       to execution, levy, attachment, garnishment, or other legal  
9       process.

10       “(2) Moneys due or payable from the Thrift Savings Fund  
11       to any individual and, in the case of an individual who is a  
12       participant, moneys which the individual would be entitled to  
13       receive under section 8422 of this title upon separation from  
14       Government employment shall be subject to legal process for  
15       the enforcement of the individual's legal obligations to  
16       provide child support or make alimony payments as provided in  
17       section 459 of the Social Security Act (42 U.S.C. 659) or to  
18       pay any indebtedness of the individual to the United States.

19       “(e) The Board shall establish a program to make loans  
20       from the Thrift Savings Fund to a participant in case of  
21       financial hardship and shall prescribe regulations to carry  
22       out such program. Any such loan shall be made only out of  
23       sums contributed to the Thrift Savings Fund by the  
24       participant and net earnings attributable to such sums.

25       “(f) The sums in the Thrift Savings Fund shall not be



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1 appropriated and may not be used for any purpose other than  
2 the purposes specified in this section.

3 ''S 8427. Investment of Thrift Savings Fund

4 ''(a) For the purposes of this section--

5 ''(1) the term 'Common Stock Index Investment Fund'  
6 means the Common Stock Investment Fund established under  
7 subsection (c)(1)(C) of this section;

8 ''(2) the term 'equity capital' means common and  
9 preferred stock, surplus, undivided profits, contingency  
10 reserves, and other capital reserves;

11 ''(3) the term 'Fixed Income Investment Fund' means  
12 the Fixed Income Investment Fund established under  
13 subsection (b)(1)(3) of this section;

14 ''(4) the term 'Government Securities Investment  
15 Fund' means the Government Securities Investment Fund  
16 established under subsection (b)(1)(A) of this section;

17 ''(5) the term 'net worth' means capital, paid-in and  
18 contributed surplus, unassigned surplus, contingency  
19 reserves, group contingency reserves, and special  
20 reserves;

21 ''(6) the term 'plan' means an employee benefit plan,  
22 as defined in section 3(3) of the Employee Retirement  
23 Income Security Act of 1974 (29-U.S.C. 1002(3));

24 ''(7) the term 'qualified professional asset manager'  
25 means--

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1           "(A) a bank, as defined in section 202(a)(2) of  
2       the Investment Advisers Act of 1940 (15 U.S.C. 820-  
3       2(a)(2)) which--

4           "(i) has the power to manage, acquire, or  
5       dispose of assets of a plan; and

6           "(ii) has, as of the last day of its latest  
7       fiscal year ending before the date of a  
8       determination for the purpose of this clause,  
9       equity capital in excess of \$1,000,000;

10          "(B) a savings and loan association, the  
11       accounts of which are insured by the Federal Savings  
12       and Loan Insurance Corporation, which--

13          "(i) has applied for and been granted trust  
14       powers to manage, acquire, or dispose of assets  
15       of a plan by a State or Government authority  
16       having supervision over savings and loan  
17       associations; and

18          "(ii) has, as of the last day of its latest  
19       fiscal year ending before the date of a  
20       determination for the purpose of this clause,  
21       equity capital or net worth in excess of  
22       \$1,000,000;

23          "(C) an insurance company which--

24          "(i) is qualified under the laws of more  
25       than one State to manage, acquire, or dispose of

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1 any assets of a plan;

2 "(11) has, as of the last day of its latest  
3 fiscal year ending before the date of a  
4 determination for the purpose of this clause, net  
5 worth in excess of \$1,000,000; and

6 "(111) is subject to supervision and  
7 examination by a State authority having  
8 supervision over insurance companies; or

9 "(D) an investment adviser registered under  
10 section 203 of the Investment Advisers Act of 1940  
11 (15 U.S.C. 82b-3) if the investment adviser has, on  
12 the the last day of its latest fiscal year ending  
13 before the date of a determination for the purpose of  
14 this subparagraph, total client assets under its  
15 management and control in excess of \$50,000,000,  
16 and--

17 "(1) the investment adviser has, on such  
18 day, shareholder's or partner's equity in excess  
19 of \$750,000; or

20 "(11) payment of all of the investment  
21 adviser's liabilities, including any liabilities  
22 which may arise by reason of a breach or  
23 violation of a duty described in section 9497 of  
24 this title, is unconditionally guaranteed by--

25 "(I) a person who directly or

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1 indirectly, through one or more  
2 intermediaries, controls, is controlled by,  
3 or is under common control with the  
4 investment adviser and who has, on the last  
5 day of the person's latest fiscal year ending  
6 before the date of a determination for the  
7 purpose of this clause, shareholder's or  
8 partner's equity in an amount which, when  
9 added to the amount of the shareholder's or  
12 partner's equity of the investment adviser on  
11 such day, exceeds \$750,000;

12 "(II) a qualified professional asset  
13 manager described in subparagraph (A), (B),  
14 or (C) of this paragraph; or

15 "(III) a broker or dealer registered  
16 under section 15 of the Securities Exchange  
17 Act of 1934 (15 U.S.C. 78b) that has, on the  
18 last day of the broker's or dealer's latest  
19 fiscal year ending before the date of a  
20 determination for the purpose of this clause,  
21 net worth in excess of \$750,000; and

22 "(8) the term 'shareholder's or partner's equity',  
23 when used in paragraph (7)(D) of this subsection with  
24 respect to an investment adviser or a person who is  
25 affiliated with the investment adviser in a manner

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1 described in clause (11)(I) of such paragraph (7)(D),  
2 means the equity shown in the most recent balance sheet  
3 prepared for such investment adviser or affiliated  
4 person, in accordance with generally accepted accounting  
5 principles, within 2 years before the date on which the  
6 investment adviser's status as a qualified professional  
7 asset manager is determined for the purposes of this  
8 section.

9 "(D)(1) The Board shall establish--

10 "(A) a Government Securities Investment Fund under  
11 which sums in the Thrift Savings Fund are invested in  
12 securities of the United States Government issued as  
13 provided in subsection (g) of this section;

14 "(B) a Fixed Income Investment Fund under which sums  
15 in the Thrift Savings Fund are invested in insurance  
16 contracts, certificates of deposits, or other instruments  
17 or obligations which (i) are issued or selected by  
18 qualified professional asset managers, and (ii) return  
19 the amount invested and pay interest, at a specified rate  
20 or rates, on that amount during a specified period of  
21 time;

22 "(C) a Common Stock Index Investment Fund as  
23 provided in paragraph (2) of this subsection; and

24 "(D) such other investment funds as the Board  
25 determines to be appropriate for the purposes of this

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1 subchapter.

2 "(2)(A) The Board shall define an index which--

3 "(1) consists of all of the common stocks that are  
4 publicly listed and traded on one or more national  
5 securities exchanges, or

6 "(11) is a commonly recognized index comprised of  
7 common stock the aggregate market value of which is at  
8 least 50 percent of the aggregate market value of all  
9 common stocks that are publicly listed and traded on one  
10 or more national securities exchanges.

11 "(B) The Common Stock Investment Fund shall be invested  
12 in each stock that is included in the index defined under  
13 subparagraph (A) of this paragraph such that, to the extent  
14 practicable, the percentage of the Common Stock Investment  
15 Fund that is invested in that stock is the same as the  
16 percentage determined by dividing the aggregate market value  
17 of all shares of that stock by the aggregate market value of  
18 all shares of all stock included in such index.

19 "(C)(1) The Executive Director shall invest in the  
20 Government Securities Investment Fund the sums which are in  
21 the Thrift Savings Fund, are available for investment, and  
22 are not to be invested in an investment fund referred to in  
23 subsection (b)(1)(B), (b)(1)(C), or (b)(4)(D) of this section  
24 pursuant to an election made under subsection (d) of this  
25 section.

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1       “(2) Except as provided in subsection (e) of this  
2 section, the Executive Director shall invest sums available  
3 in the Thrift Savings Fund for investment as provided in  
4 elections made under subsection (d) of this section.

5       “(d)(1) Except as provided in subsection (e) of this  
6 section, at least once each year, a participant or former  
7 participant may elect the investment funds referred to in  
8 subsection (b) of this section into which the sums in the  
9 Thrift Savings Fund credited to the account of such  
10 participant or former participant are to be invested or  
11 reinvested.

12       “(2) The election may be made by a participant or former  
13 participant under paragraph (1) of this subsection only in  
14 accordance with regulations prescribed by the Board and  
15 within such period after the date the participant's or former  
16 participant's annual statement is transmitted to the  
17 participant or former participant pursuant to section 8428(b)  
18 of this title as the Board shall prescribe in such  
19 regulations.

20       “(e)(1)(A) The Executive Director shall invest a  
21 percentage of the total amount that--

22       “(1) is contributed to the Thrift Savings Fund by a  
23 participant under section 8421(a) of this title during a  
24 year described under column I of the first table of  
25 minimum Government securities investments set out in

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1 subparagraph (B) of this paragraph, and  
 2 "(11) is available for investment,  
 3 in the Government Securities Investment Fund as provided  
 4 under column II of the table opposite the description of such  
 5 year.

6 "(B) For the purposes of subparagraph (A) of this  
 7 paragraph, the first table of minimum Government securities  
 8 investments is as follows:

<u>"Column I</u>	<u>Column II</u>
Year:	Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987	10%
1988	3%
1989	6%
1990	4%
1991	2%.

9 "(2)(A) The Executive Director shall invest a percentage  
 10 of the total amount that--

11 "(1) is contributed to the Thrift Savings Fund by  
 12 the Government for the benefit of a participant pursuant  
 13 to section 8421(b) of this title during a year described  
 14 under column I of the second table of minimum Government  
 15 securities investments set out in subparagraph (3) of  
 16 this paragraph, and

17 "(11) is available for investment,



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1 In the Government Securities Investment Fund as provided  
 2 under column II of the table opposite the description of such  
 3 year.

4 "(B) For the purposes of subparagraph (A) of this  
 5 paragraph, the second table of minimum Government securities  
 6 investments is as follows:

<u>Column I</u>	<u>Column II</u>
Year:	Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987-1992	100
1993	80
1994	60
1995	42
1996	20

7 "(3) All sums credited to the Thrift Savings Fund  
 8 pursuant to section 8473(b) of this title shall be invested  
 9 in the Government Securities Investment Fund.

10 "(4) The sums which are invested in the Government  
 11 Securities Investment Fund as required by this subsection and  
 12 are returned to the Thrift Savings Fund after maturity of the  
 13 securities purchased with such sums, and the amounts earned  
 14 on the investment of such sums, shall be reinvested in the  
 15 Government Securities Investment Fund.

16 "(f) The Secretary of the Treasury shall issue notes  
 17 under section 3103 of title 31 as appropriate to meet the

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1 investment needs of the Thrift Savings Fund under this  
2 section. The notes shall have a 2-year maturity, shall be  
3 redeemable at par, and shall bear interest at a rate equal to  
4 the average market yield, computed as of the end of the  
5 calendar month next preceding the date of the issue, of all  
6 2-year notes then forming a part of the public debt of the  
7 United States. If the average market yield is not a multiple  
8 of  $1/8$  of 1 percent, the rate of interest on the obligations  
9 shall be the multiple of  $1/8$  of 1 percent nearest the average  
10 market yield.

11 "§ 8428. Accounting

12 "(a)(1) The Executive Director shall establish and  
13 maintain an account for each participant making contributions  
14 under section 8421(a) of this title.

15 "(2) The balance in the account of a participant or  
16 former participant at any time is the excess of--

17 "(A) the sum of--

18 "(i) all contributions made to the Thrift  
19 Savings Fund by the participant or former participant  
20 under section 8421(a) of this title;

21 "(ii) all contributions made to such fund for  
22 the benefit of the participant or former participant  
23 under section 8421(b) of this title;

24 "(iii) the amounts transferred to such fund with  
25 respect to the participant or former participant

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1 under section 8473(b) of this title; and

2 "(iv) the total amount of the allocations made

3 to and reductions made in the account pursuant to

4 paragraph (3) of this section, over

5 "(B) the amounts paid out of the Thrift Savings Fund

6 with respect to such participant or former participant

7 under this subchapter and subchapter IV of this title.

8 "(3) Pursuant to regulations prescribed by the Board,

9 the Executive Director shall allocate to the account of each

10 participant or former participant an amount equal to a pro

11 rata share of the net earnings and net losses from each

12 investment of sums in the Thrift Savings Fund attributable to

13 sums credited to the account of such participant, reduced by

14 an appropriate share of the administrative expenses of the

15 Civil Service Thrift Investment Management System prescribed

16 in subchapter VIII of this chapter, as determined by the

17 Executive Director.

18 "(b) The Executive Director shall provide each

19 participant and former participant an annual statement of the

20 balance in the participant's or former participant's account.

21 "(c)(1) For the purposes of this subsection, the term

22 'qualified public accountant' shall have the same meaning as

23 provided in section 123(a)(3)(D) of the Employee Retirement

24 Income Security Act of 1974 (29 U.S.C. 1224(a)(3)(D)).

25 "(2) The Executive Director shall annually engage, on

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1 behalf of all participants, an independent qualified public  
2 accountant, who shall conduct an examination of any accounts  
3 established under subsection (a) of this section and of other  
4 books and records maintained in the administration of this  
5 subchapter as the accountant considers necessary to enable  
6 the accountant to make the determination required by  
7 paragraph (3) of this subsection. The examination shall be  
8 conducted in accordance with generally accepted auditing  
9 standards and shall involve such tests of the accounts,  
10 books, and records as the independent qualified public  
11 accountant considers necessary.

12 "(3) The independent qualified public accountant  
13 conducting an examination under paragraph (2) of this  
14 subsection shall determine whether the accounts, books, and  
15 records referred to in such paragraph have been maintained in  
16 conformity with generally accepted accounting principles  
17 applied on a basis consistent with the application of such  
18 principles during the examination conducted under such  
19 paragraph during the preceding year. The accountant shall  
20 transmit to the Board a report on his examination, including  
21 his determination under this paragraph.

22 "(4) In making a determination under paragraph (3) of  
23 this subsection, the accountant may rely on the correctness  
24 of any actuarial matter certified by an enrolled actuary, if  
25 the accountant states his reliance in the report transmitted

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1 to the Board under such paragraph.

2           "SUBCHAPTER IV--SURVIVOR BENEFITS

3   "§ 8431. Basic plan spousal benefits relating to the death  
4           of a participant or former participant other  
5           than an annuitant

6       "(a)(1) If a participant dies after performing 5 or more  
7 years of service and before separating from Government  
8 employment and the participant has satisfied the age and  
9 service requirements for retirement entitled to an immediate  
10 annuity under section 8411 of this title before the date of  
11 death, the surviving spouse of a deceased participant shall  
12 be entitled to a survivor annuity payable out of the Fund.

13       "(2) If a participant dies after performing 5 or more  
14 years of service and before separating from Government  
15 employment and the participant has not satisfied the age and  
16 service requirements for retirement entitled to an immediate  
17 annuity under section 8411 of this title before the date of  
18 death, the surviving spouse of a deceased participant shall  
19 be entitled to a survivor annuity payable out of the Fund.  
20 The survivor annuity shall commence on the first date the  
21 participant could have retired entitled to an immediate  
22 annuity under section 8411 of this title if the participant  
23 had continued to live and had continued to be a participant  
24 until such date.

25       "(3) The amount of the survivor annuity payable under

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1 paragraph (1) or (2) of this subsection to the surviving  
2 spouse of a deceased participant shall be equal to 50 percent  
3 of the annuity computed with respect to the deceased  
4 participant pursuant to sections 8413, 8414, and 8415 of this  
5 title as if the participant had retired from Government  
6 employment on the day before the date of death and had  
7 elected the method of payment described in section  
8 8416(a)(2)(B) of this title.

9     “(b)(1) If a former participant dies entitled to a  
10 deferred annuity under section 8412 of this title before  
11 payment of an annuity under subchapter II of this chapter to  
12 the former participant commences, the surviving spouse of the  
13 deceased former participant is entitled to a survivor annuity  
14 payable out of the Fund.

15     “(2) The amount of the survivor annuity payable under  
16 paragraph (1) of this subsection to the surviving spouse of a  
17 deceased former participant shall be equal to 50 percent of  
18 the annuity which the deceased former participant would have  
19 been entitled to receive under such section if the deceased  
20 former participant--

21     “(A) had been 55 years of age on the day before the  
22 date of death, or

23     “(B) in the case of a former participant who was 55  
24 years of age or older on such day and was not receiving  
25 such annuity, had commenced to receive such deferred

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1 annuity on such day,  
2 computed under sections 8413, 8414, and 8415 of this title.  
3 ''S 8432. Basic plan spousal and insurable interest benefits  
4 relating to the death of an annuitant

5 ''A survivor annuity shall be paid out of the Fund with  
6 respect to a deceased annuitant--

7 ''(1) in accordance with the method of payment  
8 elected by the annuitant under section 8416 of this  
9 title;

10 ''(2) as provided in subsection (b)(3) of such  
11 section; or

12 ''(3) in accordance with an election made by the  
13 annuitant under section 8434(a) or 8436(c) of this title.

14 ''S 8433. Survivor benefits under the thrift savings plan

15 ''(a) A survivor annuity shall be paid out of the Thrift  
16 Savings Fund with respect to a deceased annuitant as provided  
17 under a method of payment of annuities elected by the  
18 annuitant under section 8424(b) of this title or in  
19 accordance with an election made by the annuitant under  
20 section 8434(a) or 8436(c) of this title. The amount of the  
21 survivor annuity shall be determined on an actuarial basis  
22 under regulations prescribed by the Board.

23 ''(b)(1) Except as provided in subsection (d) of this  
24 section, the amount in the account established and maintained  
25 for a deceased participant or deceased former participant

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1 (other than a deceased annuitant) pursuant to section 8428(a)  
2 of this title, determined on the date of an election under  
3 subsection (c) of this section, shall, subject to the limits  
4 of the entitlement set out in section 8422(a)(1) of this  
5 title (without regard to section 8422(a)(2) of this title),  
6 be paid as provided in paragraph (2) of this subsection.

7     “(2)(A) Except as provided in subparagraph (B) of this  
8 paragraph, payment under paragraph (1) of this subsection  
9 shall be made to the surviving spouse of the deceased  
10 participant or former participant pursuant to the method  
11 elected under subsection (c) of this section.

12     “(B) If a deceased participant or former participant  
13 referred to in paragraph (1) of this subsection is not  
14 survived by a spouse, payment under such paragraph shall be  
15 made to--

16         “(1) any individual who has an insurable interest in  
17 the participant or former participant and has been  
18 designated by the participant for the purpose of such  
19 paragraph under regulations prescribed by the Board; or

20         “(11) if the deceased participant or former  
21 participant did not make a designation as provided in  
22 clause (1) of this subparagraph, to the estate of the  
23 deceased participant or former participant.

24     “(c) A surviving spouse entitled to payment of benefits  
25 under subsection (b) of this section may elect--



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1        "(1) to receive an annuity from the Fund payable  
2        monthly for life;

3        "(2) to transfer the amount referred to in such  
4        subsection to an individual retirement account (within  
5        the meaning of the Internal Revenue Code of 1954) of the  
6        surviving spouse; or

7        "(3) to withdraw such amount in one or more  
8        payments.

9        "(d) Any amount required for the payment of a survivor  
10       annuity with respect to a deceased participant or deceased  
11       former participant out of the Thrift Savings Fund pursuant to  
12       section 8435 of this title shall be deducted and withheld  
13       from a distribution made with respect to the deceased  
14       participant or deceased former participant pursuant to  
15       subsection (b) of this section. The amount deducted and  
16       withheld shall be maintained in the Thrift Savings Fund until  
17       expended in payment of the survivor annuity or until the  
18       survivor annuity terminates. Any sums remaining from the  
19       amount deducted and withheld after the termination of the  
20       survivor annuity, plus net earnings realized from investment  
21       of such amount, shall be distributed as provided in  
22       subsection (b) of this section.

23       "§ 8434. Basic and thrift savings plan-survivor benefits  
24               relating to marriage after commencement of an  
25               annuity

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1       “(a) If an annuitant--

2               “(1) is married on the date that the annuitant  
3       applies for payment of an annuity under subchapter II of  
4       this chapter to commence, the marriage terminates, and  
5       the annuitant remarries, or

6               “(2) is not married on such date and marries after  
7       such date,

8       the annuitant may irrevocably elect during the later marriage  
9       to provide an annuity for such annuitant's spouse under the  
10       method of payment described in section 8416(a)(2)(B) or  
11       subparagraph (B) or (D) of section 8424(a)(2) of this title.  
12       An election under this subparagraph shall be made in a signed  
13       writing received by the Office within 2 years after the date  
14       of the remarriage or marriage, as the case may be.

15              “(b) An election under subsection (a) of this section  
16       shall be effective the first day of the second month  
17       beginning after the election is received by the Office (in  
18       the case of a survivor annuity payable out of the Fund) or  
19       the Executive Director (in the case of a survivor annuity  
20       payable out of the Thrift Savings Fund), but not earlier than  
21       9 months after the date of the remarriage referred to in  
22       paragraph (1) of such subsection or the date of the marriage  
23       referred to in paragraph (2) of such subsection.

24              “(c) An annuitant making an election under subsection  
25       (a) of this section to provide a survivor annuity payable out  
26       of the Fund shall, within 2 years after the date of the

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1 remarriage referred to in paragraph (1) of such subsection or  
2 the date of the marriage referred to in paragraph (2) of such  
3 subsection, deposit in the Fund an amount determined by the  
4 Office, as nearly as may be administratively feasible, to  
5 reflect the amount by which the annuity of such annuitant  
6 would have been reduced if the election had been in effect  
7 since--

8       “(1) the date that payment of an annuity to the  
9 annuitant under subchapter II of this chapter commenced,  
10 or

11       “(2) if the annuity had previously been reduced to  
12 provide for a survivor annuity under section 8432 of this  
13 title, the date the previous reduction in such  
14 annuitant's annuity was terminated under section 8415(c)  
15 of this title,  
16 plus interest computed as provided in section 8439(a) of this  
17 title.

18       “(d) Notwithstanding any other provision of this  
19 section, an election under this section may not be made for  
20 the purpose of providing a survivor annuity payable from the  
21 Fund to a spouse of an annuitant by remarriage if--

22       “(A) such spouse was married to the annuitant on the  
23 date that payment of an annuity to the annuitant under  
24 subchapter II of this chapter commenced; and

25       “(B) rights to survivor benefits for such spouse

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1 based on marriage to such annuitant were then waived  
2 under section 8415(b)(2) of this title.

3 ``§ 8435. Survivor benefits for eligible former spouses:  
4 entitlement; amount

5 `` (a) Subject to subsections (b) through (g) of this  
6 section, an eligible former spouse of a deceased participant  
7 or deceased former participant who dies entitled to an  
8 immediate or deferred annuity under section 8411 or 8412 of  
9 this title is entitled to a survivor annuity under this  
10 section if and to the extent that--

11 `` (1) an election under section 8436 of this title,

12 `` (2) any court decree dissolving or annulling the  
13 marriage of the participant or former participant and the  
14 eligible former spouse, or

15 `` (3) any court order or court-approved property  
16 settlement agreement incident to such decree,  
17 expressly provides for such survivor annuity.

18 `` (b)(1) The amount of the survivor annuity payable from  
19 the Fund to an eligible former spouse of a deceased  
20 participant or deceased former participant under this section  
21 may not exceed the excess, if any, of--

22 `` (A) the amount applicable in the case of such  
23 eligible former spouse, as determined under paragraph (2)  
24 of this subsection, over

25 `` (B) the amount of all other survivor annuities

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1 payable from the Fund under this section to other  
2 eligible former spouses of the participant or former  
3 participant based on the order of precedence provided in  
4 subsection (d) of this section.

5 "(2) For the purposes of paragraph (1)(A) of this  
6 subsection, the amount applicable in the case of an eligible  
7 former spouse of a deceased participant or deceased former  
8 participant is the amount--

9 "(A) which is equal to 50 percent of the amount of  
10 the deceased former participant's annuity payable to the  
11 former participant on the day before the date of the  
12 former participant's death, if the deceased former  
13 participant was an annuitant on such day;

14 "(B) which would be applicable under paragraph (3)  
15 of section 8431(a) of this title in the case of a  
16 surviving spouse of the deceased, if the deceased was a  
17 participant described in paragraph (1) or (2) of such  
18 section 8431(a); or

19 "(C) which would be applicable under paragraph (2)  
20 of section 8431(b) of this title in the case of a  
21 surviving spouse of the deceased, if the deceased was a  
22 former participant described in paragraph (1) of such  
23 section 8431(b).

24 "(c) The total amount of all survivor annuities payable  
25 from the Thrift Savings Fund to eligible former spouses of a

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1 deceased participant or deceased former participant pursuant  
2 to this section may not exceed the amount of the survivor  
3 annuities that would be payable to the former spouses out of  
4 100 percent of the balance in the account of the deceased  
5 participant or deceased former participant, plus anticipated  
6 net earnings from investments allocable to such account,  
7 determined on an actuarial basis in accordance with  
8 regulations prescribed by the Board.

9     “(d) If more than one eligible former spouse is entitled  
10 to a survivor annuity pursuant to this section, the amount of  
11 each such survivor annuity shall be limited appropriately to  
12 carry out subsection (b) or (c) of this section on a first-  
13 come, first-served basis determined by reference to the date  
14 an election is properly made pursuant to section 8436 of this  
15 title or the date the Director or Executive Director, as the  
16 case may be, properly receives a copy of the court decree,  
17 order, or court-approved agreement applicable to the  
18 entitlement.

19     “(e) The commencement and termination dates of a  
20 survivor annuity payable under this section to an eligible  
21 former spouse of a deceased participant or deceased former  
22 participant shall be the commencement and termination dates  
23 determined under the provisions of the applicable court  
24 order, decree, or agreement or an election, as the case may  
25 be (if provided in such order, decree, agreement, or

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1 election), except that any such survivor annuity--

2        “(1) shall not commence before--

3            “(A) the day after the participant or former  
4 participant dies, or

5            “(B) the first day of the second month beginning  
6 after the date on which the Office receives written  
7 notice of the court order, decree, or agreement or  
8 the election, as the case may be, together with such  
9 additional information or documentation as the Office  
10 may prescribe,

11 whichever is later, and

12        “(2) shall terminate not later than the date  
13 provided in section 8464(b)(2) of this title.

14        “(f) For the purposes of this section, a court decree,  
15 order, or agreement or an election referred to in subsection  
16 (a) of this section shall not be effective, in the case of a  
17 survivor annuity payable out of the Fund to a former spouse,  
18 to the extent that the election is inconsistent with any  
19 joint waiver previously executed with respect to such former  
20 spouse under section 8416(b)(2) of this title.

21        “(g) Any payment under this section to a person bars  
22 recovery by any other person.

23        “§ 8436. Survivor benefits for former spouses: elections,  
24 deposits and collections, and administrative  
25 provisions

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1       “(a)(1) If an annuitant has an eligible former spouse on  
2 the date that the annuitant applies for payment of an annuity  
3 to the annuitant under subchapter II of this chapter to  
4 commence, the annuitant may elect, under procedures  
5 prescribed by the Office, to provide a survivor annuity for  
6 such former spouse under section 8435 of this title. An  
7 election under this paragraph shall be made on such date or,  
8 if later, within 2 years after the date on which the marriage  
9 of the former spouse to the annuitant was dissolved or  
10 annulled. The election shall specify the amount of the  
11 survivor annuity to be provided under this paragraph.

12       “(2) If an annuitant makes an election under paragraph  
13 (1) of this subsection to provide a survivor annuity payable  
14 out of the Fund and the annuitant makes the election during  
15 the 2-year period referred to in such paragraph, the  
16 annuitant shall deposit in the Fund, within such period, an  
17 amount determined by the Office, as nearly as may be  
18 administratively feasible, to reflect the amount by which the  
19 annuity of such an annuitant would have been reduced if the  
20 election had been continuously in effect since the date the  
21 annuity commenced, plus interest computed as provided in  
22 section 8438(a) of this title.

23       “(3) An election under paragraph (1) of this  
24 subsection--

25       “(A) shall not be effective to the extent that it



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1 conflicts with--

2        “(1) any court decree or order referred to in  
3 subsection (a) of section 8435 of this title, or

4        “(11) any agreement referred to in such  
5 subsection,

6 which is received by the Office before the date on which  
7 such election is made;

8        “(9) shall not be effective to the extent that the  
9 amount of the annuity specified in the election exceeds--

10       “(1) in the case of a survivor annuity payable  
11 from the Fund, the amount determined pursuant to  
12 subsections (b)(2) and (d) of section 8435 of this  
13 title; or

14       “(11) in the case of a survivor annuity payable  
15 from the Thrift Savings Fund, the amount determined  
16 pursuant to subsections (c) and (d) of section 8435  
17 of this title; and

18       “(C) shall not be effective, in the case of an  
19 annuitant who is married on the date of the election,  
20 unless the election is made with the written consent of  
21 the annuitant's spouse.

22       “(b) An annuitant who has elected to provide a survivor  
23 annuity for an eligible former spouse pursuant to subsection  
24 (a) of this section may make an election to provide or  
25 increase a survivor annuity for any other eligible former

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1 spouse of the annuitant within the same period that, and  
2 subject to the same conditions under which, an election could  
3 be made under subsection (c) of this section for a spouse of  
4 the annuitant (subject to the provisions of subsection  
5 (a)(3)(C) of this section relating to the consent of a  
6 spouse, if the annuitant is then married). The opportunity to  
7 make an election under the preceding sentence is in addition  
8 to any opportunity otherwise provided under this subsection.

9     “(c) If the entitlement of an eligible former spouse of  
10 an annuitant to a survivor annuity under this subchapter is  
11 terminated or reduced by reason of the remarriage or death of  
12 the former spouse, the annuitant may elect, in a signed  
13 writing received by the Office (in the case of a survivor  
14 annuity to be paid out of the Fund) or the Executive Director  
15 (in the case of a survivor annuity to be paid out of the  
16 Thrift Savings Fund) within 2 years after the former spouse's  
17 date of death or remarriage, as the case may be, to provide a  
18 survivor annuity under the method described in section  
19 8416(a)(2)(B) of this title (in the case of a terminated or  
20 reduced entitlement payable out of the Fund) or in  
21 subparagraph (B) or (D) of section 8424(a)(2) of this title  
22 (in the case of a terminated or reduced entitlement payable  
23 from the Thrift Savings Fund).

24     “(d) The requirement that the spouse of an annuitant  
25 waive a right to a survivor annuity under this subchapter as

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1 a condition for an election authorized by subsection  
2 (a)(3)(C) of this section shall not apply if the participant  
3 or annuitant establishes to the satisfaction of the Office  
4 that--

5       “(1) the spouse’s whereabouts cannot reasonably be  
6 determined; or

7       “(2) due to exceptional circumstances, it would be  
8 inappropriate to require the participant or annuitant to  
9 obtain the spouse’s consent.

10   “§ 8437. Termination of entitlement

11       “(a) An election of an annuitant to provide a survivor  
12 annuity to the annuitant’s spouse under this subchapter  
13 terminates on the first day of the first month beginning  
14 after--

15       “(1) the date of the death of the spouse; or

16       “(2) the date of the dissolution of the spouse’s  
17 marriage to the annuitant.

18       “(b) The entitlement of an eligible former spouse of a  
19 former participant to a survivor annuity under section  
20 8435(a) of this title terminates on the first day of the  
21 first month beginning after--

22       “(1) the date of the death of the former spouse; or

23       “(2) the date the former spouse remarries before  
24 becoming 55 years of age.

25   “§ 8438. Deposits to the Fund

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1       “(a) For the purposes of section 8434(c) or 8436(a)(2)  
2 of this title, the annual rate of interest for each year  
3 during which an annuity would have been reduced if the  
4 election referred to in such section had been in effect on  
5 and after the applicable date referred to in such section  
6 shall be the percent determined for such year under section  
7 8334(e) of this title.

8       “(b) If an annuitant does not make a deposit required by  
9 section 8434(c) or 8436(a)(2) of this title, the Office shall  
10 collect such amount by offset against the annuitant's annuity  
11 payable from the Fund, up to a maximum of 25 percent of the  
12 net annuity otherwise payable to the annuitant. The annuitant  
13 is deemed to consent to such offset.

14       “(c) The Office may extend the time limit for making a  
15 deposit required by section 8434(c) or 8436(a)(2) of this  
16 title in any case for good cause shown.

17               “SUBCHAPTER V--DISABILITY BENEFITS

18       “§ 8441. Definitions

19       “For the purposes of this subchapter--

20       “(1) the term ‘administrator of benefits’ means an  
21 insurance company or other entity which--

22               “(A) offers claims payment services and related  
23 administrative services under benefit plans provided  
24 by employers in the private sector; and

25               “(B) has entered into a contract with the Office

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1           pursuant to section 8452 of this title;

2           "(2) the term 'disability benefits under the Social  
3       Security Act' means disability insurance benefits payable  
4       under section 223 of the Social Security Act or benefits  
5       payable under section 202 of such Act by reason of being  
6       under a disability;

7           "(3) the term 'disability date', when used with  
8       respect to an eligible participant, means the date the  
9       eligible participant became disabled;

10          "(4) the term 'disabled', when used with respect to  
11       an eligible participant, means that the eligible  
12       participant--

13                "(A) is under a disability within the meaning of  
14       section 223 of the Social Security Act; or

15                "(B) is unable, because of disease or injury, to  
16       render useful and efficient service in the  
17       participant's position and is not qualified for  
18       reassignment, under procedures prescribed by the  
19       Office, to a vacant position--

20                "(1) which is in the participant's employing  
21       agency and is in the participant's commuting  
22       area;

23                "(ii) which is at the same grade or pay  
24       level as the participant's position; and

25                "(iii) in which the participant would be

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1 able to render useful and efficient service;

2 "(5) the term 'eligible participant' means an  
3 employee or member whose service exceeds 18 months and--

4 "(1) who--

5 "(1) has applied for disability benefits  
6 under the Social Security Act and has been  
7 determined to be under a disability for the  
8 purposes of title II of the Social Security Act;  
9 or

10 "(11) in the case of an employee or member  
11 who is not entitled to disability benefits under  
12 the Social Security Act by reason of insufficient  
13 quarters of coverage, has been determined by an  
14 administrator of benefits to be disabled within  
15 the meaning of paragraph (4)(B) of this section  
16 on the basis of a report of examination required  
17 by section 8445 of this title; or

18 "(B) who has been determined by an administrator  
19 of benefits to be disabled within the meaning of  
20 paragraph (4)(B) of this section on the basis of a  
21 report of examination required by section 8445 of  
22 this title;

23 "(6) the term 'onset average pay', when used with  
24 respect to a disabled eligible participant, means the  
25 participant's average pay on the participant's disability

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1 date increased on January 1 of each year after such date  
2 by the same percent by which annuities referred to in  
3 paragraph (1) of section 8462(b) of this title are  
4 increased under such section 8462(b) in December of the  
5 preceding year, and compounded; and

6 "(7) the term 'projected service', when used with  
7 respect to a disabled eligible participant, means the sum  
8 of the number of years of service performed by the  
9 participant before the participant's disability date and  
10 the number of years, if any, after such date and before  
11 the date the participant becomes--

12 "(A) in the case of an eligible participant  
13 referred to in subparagraph (5)(B) of this section,  
14 62 years of age; or

15 "(B) in the case of an eligible participant  
16 referred to in subparagraph (5)(B) of this section,  
17 55 years of age.

18 "§ 8442. Entitlement

19 "(a)(1) A person who is an eligible participant, is  
20 disabled, and has used all sick leave accrued and accumulated  
21 under subchapter I of chapter 63 of this title or any other  
22 similar applicable provision of law relating to Government  
23 employment is entitled to receive disability benefits under  
24 this subchapter while--

25 "(A) in the case of a person who is disabled within

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1 the meaning of section 8441(4)(A) of this title, such  
2 person is under 62 years of age; and

3 "(B) in the case of a person who is disabled within  
4 the meaning of section 8441(4)(B) of this title, such  
5 person is under 55 years of age.

6 "(2) When a person referred to in paragraph (1) of this  
7 subsection exceeds the maximum age at which the person is  
8 qualified for benefits under such paragraph, the person shall  
9 be treated as an eligible participant for the purposes of  
10 entitlement to benefits under subsection (b) of this section.

11 "(b)(1) An eligible participant who--

12 "(A) is disabled within the meaning of section  
13 8441(4)(A) of this title and is not less than 62 years of  
14 age, or

15 "(B) is disabled within the meaning of section  
16 8441(4)(B) of this title and is not less than 55 years of  
17 age,

18 and who has 5 or more years of service and projected service  
19 shall be entitled to an annuity as provided in subchapter II  
20 of this title.

21 "(2) For the purposes of applying the provisions of  
22 subchapter II of this title in the case of an eligible  
23 participant pursuant to paragraph (1) of this subsection--

24 "(A) the eligible participant shall be deemed to  
25 have separated from Government employment on the day



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1 before the date the participant becomes entitled to an  
2 annuity pursuant to paragraph (1) of this subsection;

3 "(B) the service of the participant shall include  
4 the participant's projected service; and

5 "(C) the participant's average pay shall be equal to  
6 the participant's onset average pay.

7 "§ 8443. Computation of benefits

8 "(a) The annual rate of the disability benefits payable  
9 under section 8442(a) of this title to an eligible  
10 participant referred to in section 8441(5)(1) of this title  
11 shall be equal to the excess of 67 percent of the  
12 participant's onset average pay over the amount, if any,  
13 payable to the participant as disability benefits under the  
14 Social Security Act.

15 "(b) The annual rate of the disability benefits payable  
16 under section 8442(a) of this title to an eligible  
17 participant referred to in section 8441(5)(2) of this title--

18 "(1) during the period ending 1 year after the  
19 eligible participant's disability date, shall be equal to  
20 the excess of 67 percent of the participant's onset  
21 average pay over the amount, if any, payable to the  
22 participant as disability benefits under the Social  
23 Security Act; and

24 "(2) after such period, while the participant is  
25 under 55 years of age, shall be equal to the excess of 47

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1 percent of the participant's onset average pay over the  
2 amount, if any, payable to the participant as disability  
3 benefits under the Social Security Act.

4 "§ 8444. Application

5 "(a) Except as provided in subsection (b) of this  
6 section, a claim of a participant for disability benefits  
7 under this subchapter may be allowed only if the participant  
8 files with the appropriate administrator of benefits an  
9 application for the disability benefits before the date the  
10 participant separates from Government employment or within 1  
11 year after such date.

12 "(b) An appropriate administrator of benefits may waive  
13 the time limitation set out in subsection (a) of this section  
14 in the case of a participant if--

15 "(1) the administrator of benefits determines that  
16 the participant was mentally incompetent on the date the  
17 participant separated from Government employment or  
18 within 1 year after such date; and

19 "(2) the application for disability benefits is  
20 filed within 1 year after the date the participant is  
21 restored to mental competency or the date a fiduciary is  
22 appointed to manage the financial affairs of the  
23 participant, whichever date is earlier.

24 "§ 8445. Medical examinations

25 "(a) A participant applying for or receiving disability

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1 benefits under section 8442(a) of this title shall be  
2 examined by a physician under the direction of the  
3 appropriate administrator of benefits at such times as such  
4 administrator may require.

5     “(b) A physician examining a participant under  
6 subsection (a) of this section shall report to the  
7 appropriate administrator of benefits the diagnosis and  
8 prognosis with respect to such participant.

9     “(c) Notwithstanding any other provision of this  
10 subchapter, any participant who fails to submit to the  
11 examination required under subsection (a) of this section  
12 shall not be entitled to disability benefits.

13     “§ 8446. Offers of alternative employment

14     “(a)(1) Any participant who is applying for disability  
15 benefits under this subchapter, is examined pursuant to  
16 section 8445 of this title, and is determined on the basis of  
17 the examination to be able to perform the work required in  
18 any position described in paragraph (2) of this subsection  
19 shall be considered for appointment to such position.

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1       “(2) A position referred to in paragraph (1) of this  
2 subsection is a position which is in the agency of the  
3 Government employing the participant referred to in such  
4 paragraph, is a position for which the participant is  
5 qualified, is not lower than the grade or pay level of the  
6 participant's position, and is within the participant's  
7 commuting area.

8       “(b) Any participant who is appointed to or offered a  
9 position under subsection (a) of this section is entitled to  
10 appeal to the Merit Systems Protection Board under section  
11 7701 of this title any determination that the participant is  
12 able to perform the work required of such position.

13       “§ 8447. Recovery or restoration of earning capacity

14       “(a)(1) If an administrator of benefits determines that  
15 an individual who is receiving disability benefits under this  
16 subchapter has recovered from the disability before becoming  
17 62 years of age (in the case of an individual who is disabled  
18 within the meaning of section 8441(4)(A) of this title) or 55  
19 years of age (in the case of an individual who is disabled  
20 within the meaning of section 8441(4)(B) of this title),  
21 payment of the benefits shall terminate on the date the  
22 individual is reemployed by the Government or 1 year after  
23 the date of the medical examination on which such  
24 administrator's determination is based, whichever date is  
25 earlier.

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1       “(2)(A) Payment of disability benefits to any individual  
2 under this chapter that has been terminated pursuant to  
3 paragraph (1) of this subsection shall be resumed if there is  
4 a recurrence of the individual's disability, as determined by  
5 an administrator of benefits after a medical examination of  
6 the individual, and the individual is under 52 years of age  
7 (in the case of an individual who is disabled within the  
8 meaning of section 8441(4)(A) of this title) or under 55  
9 years of age (in the case of an individual who is disabled  
10 within the meaning of section 8441(4)(B) of this title).

11       “(B) A resumption of payment of disability benefits  
12 under subparagraph (A) of this paragraph shall be effective  
13 on the date the medical examination referred to in such  
14 paragraph was completed.

15       “(C) The annual rate of the disability benefits payable  
16 to an individual upon resumption of payment under  
17 subparagraph (A) of this paragraph shall be the annual rate  
18 that would have been payable to the individual if payment of  
19 disability benefits had not been terminated pursuant to  
20 paragraph (1) of this subsection.

21       “(b)(1) If the administrator of benefits determines that  
22 an individual who is receiving disability benefits under this  
23 subchapter has received, during the latest calendar year,  
24 income from wages or self-employment or both totalling the  
25 amount equal to 60 percent of the rate of pay payable for the

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1 individual's position of Government employment on the  
2 individual's disability date determined for the purposes of  
3 this subchapter (increased as if such rate of pay had been  
4 increased, by the same percent as the overall percent  
5 increase in the rates of pay under the General Schedule, each  
6 time such rates had been increased pursuant to section 5305  
7 of this title since such date), payment of the benefits shall  
8 terminate on the date 60 days after the end of such calendar  
9 year.

10     “(2)(A) If payment of disability benefits under this  
11 subchapter has been terminated pursuant to paragraph (1) of  
12 this subsection in the case of an individual who is not  
13 reemployed in a position subject to this chapter, who  
14 continues to be disabled, who is under 62 years of age (in  
15 the case of an individual who is disabled within the meaning  
16 of section 8441(4)(A) of this title) or under 55 years of age  
17 (in the case of an individual who is disabled within the  
18 meaning of section 8441(4)(B) of this title), and who  
19 receives in the calendar year in which the disability  
20 benefits were terminated, or any calendar year after such  
21 year, income from wages or self-employment or both totalling  
22 less than the amount computed in such case as provided in  
23 such paragraph, payment of disability benefits to the  
24 individual under this subchapter shall be resumed.

25     “(B) A resumption of payment of disability benefits to

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1 an individual under subparagraph (A) of this paragraph shall  
2 be effective the first day of the first year beginning after  
3 the year in which the individual received the income referred  
4 to in such subparagraph.

5     “(C) The annual rate of the disability benefits payable  
6 to an individual upon resumption of payment of disability  
7 benefits under subparagraph (A) of this paragraph shall be  
8 the annual rate that would have been payable to the  
9 individual if payment had not been terminated pursuant to  
10 paragraph (1) of this subsection.

11     “(c) Any determination under this section may be  
12 appealed to the Office. A determination of the Office in such  
13 an appeal may be appealed to the Merit Systems Protection  
14 Board under section 7701 of this title. The Merit Systems  
15 Protection Board may hear and adjudicate any such appeal.

16     “§ 8448. Relationship to workers' compensation

17     “(a)(1) An individual is not entitled to receive  
18 disability benefits under this subchapter and compensation  
19 for injury to or disability of the individual under  
20 subchapter I of chapter 81 of this title covering the same  
21 period of time.

22     “(2) Paragraph (1) of this subsection does not bar the  
23 right of a claimant to the greater benefit conferred by  
24 either subchapter referred to in such paragraph for any part  
25 of the period referred to in such paragraph.

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1       “(3) Paragraph (1) of this subsection and the provisions  
2 of subchapter I of chapter 81 of this title do not deny an  
3 individual an annuity which the individual is entitled to  
4 receive under this chapter on account of service performed by  
5 the individual and do not deny any concurrent benefit to the  
6 individual under subchapter I of chapter 81 of this title on  
7 account of the death of another individual.

8       “(D)(1) Subject to paragraph (2) of this subsection, an  
9 individual's receipt of a lump-sum payment for compensation  
10 under section 8135 of this title shall not affect the  
11 individual's entitlement to disability benefits under this  
12 subchapter.

13       “(2) If disability benefits are payable under this  
14 subchapter by reason of the same disability for which a lump-  
15 sum payment of compensation referred to in paragraph (1) of  
16 this subsection has been made, so much of the compensation as  
17 has been paid for a period extended beyond the date payment  
18 of the disability benefits commences, as determined by the  
19 Department of Labor, shall be refunded to that Department for  
20 credit to the Employees' Compensation Fund. Before the  
21 individual may receive the disability benefits, the  
22 individual shall--

23       “(A) refund to the Department of Labor the amount  
24 representing the commuted compensation payments for the  
25 extended period; or



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1           "(B) authorize the deduction of the amount from the  
2     disability benefits.

3     Deductions from the disability benefits may be made from  
4     accrued or accruing payments. The amounts deducted and  
5     withheld from disability benefits shall be transmitted to the  
6     Department of Labor for reimbursement to the Employees'  
7     Compensation Fund. When the Department of Labor finds that  
8     the financial circumstances of an individual entitled to  
9     disability benefits under this subchapter warrant deferred  
10    refunding under this paragraph, deductions from the  
11    disability benefits may be prorated against and paid from  
12    accruing payments in such manner as the Department determines  
13    appropriate.

14    "\$ 8449. Military reserve technicians

15       "(a)(1) Except as provided in paragraph (2) of this  
16     subsection, a participant shall be entitled to disability  
17     benefits under this subchapter in the same manner as an  
18     eligible participant described in section 8441(5)(B) of this  
19     title if the participant--

20       "(A) is separated from employment as a military  
21     reserve technician by reason of a disability that  
22     disqualifies the individual from membership in a reserve  
23     component of the Armed Forces specified in section 251(a)  
24     of title 10 or from holding the military grade required  
25     for such employment:

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1           "(B) is not considered disabled;

2           "(C) is not appointed to another position in the  
3       Government (under subsection (b) of this section or  
4       otherwise); and

5           "(D) has not declined an offer of appointment to a  
6       position in the Government under subsection (b) of this  
7       section.

8       "(2) Payment of disability benefits to an individual  
9       under this section terminates--

10           "(A) on the date the individual is appointed to a  
11       position in the Government (under subsection (b) of this  
12       section or otherwise);

13           "(B) on the date the individual declines an offer of  
14       appointment to a position in the Government pursuant to  
15       subsection (b) of this section; or

16           "(C) as provided in section 8447(a) or 8447(b) of  
17       this title.

18       "(b) Any individual applying for or receiving disability  
19       benefits pursuant to this section shall, in accordance with  
20       regulations prescribed by the Office, be considered by any  
21       agency of the Government before any vacant position in the  
22       agency is filled if--

23           "(1) the position is located within the commuting  
24       area of the individual's former position;

25           "(2) the individual is qualified to serve in the

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1       vacant position; and

2           "(3) the position is at the same grade or equivalent  
3       level as the position from which the individual was  
4       separated.

5       "§ 8450. Administrative provisions

6           "(a) For the purpose of this section, the term 'State'  
7       means a State of the United States, the District of Columbia,  
8       the Commonwealth of Puerto Rico, and a territory or  
9       possession of the United States.

10          "(b) The Office shall enter into a contract with one or  
11       more insurance companies or other entities described in  
12       section 8441(1)(A) of this title to provide long-term group  
13       disability insurance benefits under this subchapter and to  
14       administer the provisions of this subchapter which the Office  
15       is not specifically required by this chapter to administer.  
16       Each such company or other entity shall meet the following  
17       requirements:

18            "(1) It must be licensed to transact insurance under  
19       the laws of a State.

20            "(2) It must have in effect, on the most recent  
21       December 31 for which information is available to the  
22       Office, an amount of employee group disability insurance  
23       equal to at least 1 percent of the total amount of  
24       employee group disability insurance in the United States  
25       in all insurance companies.

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1       “(c) A contractor under a contract awarded under  
2 subsection (b) of this section shall establish an  
3 administrative office under a name approved by the Office.

4       “(d) Each contract awarded by the Office under  
5 subsection (b) of this section may remain in effect for a  
6 period not exceeding 5 years and may include a provision  
7 authorizing extension of the contract, with the consent of  
8 the contractor, for successive periods of 1 year each.

9       “(e) The Director may include in contracts awarded under  
10 subsection (b) of this section such terms and conditions as  
11 he considers appropriate to protect the interests of  
12 participants and the United States.

13       “(f) All records established or maintained by an  
14 administrator of benefits in the administration of this  
15 subchapter shall be the property of the United States. The  
16 administrator of benefits shall deliver such records to the  
17 Office whenever requested by the Office.

18       “(g) The provisions of any contract under this  
19 subchapter which relate to the nature or extent of coverage  
20 or benefits (including payments with respect to benefits)  
21 shall supersede and preempt any law of any State or political  
22 subdivision thereof, or any regulation issued thereunder,  
23 which relates to group disability insurance to the extent  
24 that the law or regulation is inconsistent with the  
25 contractual provisions.

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1       “(h) The Secretary of Health and Human Services shall  
2 furnish to the Office and an administrator of benefits such  
3 information, including information on individuals claiming  
4 entitlement to benefits under this subchapter, as the Office  
5 determines to be necessary to carry out this subchapter.

6       “§ 8451. Annual accounting; special contingency reserve

7       “‘A contract awarded under section 8450 of this title  
8 shall include a provision requiring the administrator of  
9 benefits under the contract to transmit an accounting to the  
10 Office not later than 90 days after the end of each policy  
11 year. The accounting shall set forth, in a form approved by  
12 the Office--

13       “(1) the total of all claim charges incurred for the  
14 contract year; and

15       “(2) the amounts of the expenses of the  
16 administrator of benefits charged for the contract year.

17       “§ 8452. Federal Employees' Disability Insurance Fund

18       “(a) There is established in the Treasury of the United  
19 States a fund to be known as the 'Federal Employees'  
20 Disability Insurance Fund'.

21       “(b)(1) Each agency of the Government employing  
22 participants shall make periodic payments to the Federal  
23 Employees' Disability Insurance Fund in the amount of the  
24 portion of the premium payable for the applicable period (as  
25 determined by the Office) which is attributable to such

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1 participants, as determined by the Office and the appropriate  
2 administrator of benefits.

3     “(2) An employing agency shall pay the amounts required  
4 by paragraph (1) of this subsection from the appropriation or  
5 fund available for payment of the basic pay or salaries of  
6 employees of the agency. In the case of a participant in the  
7 legislative branch who is paid by the Clerk of the House of  
8 Representatives, the amount shall be paid from the contingent  
9 fund of the House of Representatives.

10     “(c) Sums in the Federal Employees' Disability Insurance  
11 Fund shall be available without fiscal year limitation for  
12 the payment of premiums for long-term group disability  
13 insurance under this subchapter.

14     “(d) The Secretary of the Treasury may invest and  
15 reinvest any of the money in the Federal Employees'  
16 Disability Insurance Fund in interest-bearing obligations of  
17 the United States and may sell such obligations for the  
18 purposes of such fund. The interest on and the proceeds from  
19 the sale of these obligations, and the income derived from  
20 premium rate adjustments, become a part of such fund.

21     “(e)(1) No tax, fee, or other monetary payment may be  
22 imposed or collected by any State or by any political  
23 subdivision or other governmental authority thereof on or  
24 with respect to any premium paid for long-term group  
25 disability insurance under this subchapter.

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1       “(2) Paragraph (1) of this subsection shall not be  
2 construed to exempt any administrator of benefits from the  
3 imposition, payment, or collection of a tax, fee, or other  
4 monetary payment on the net income or profit accruing to or  
5 realized by the administrator from business conducted under  
6 this subchapter, if that tax, fee, or payment is applicable  
7 to a broad range of business activity.

8       “SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

9       “§ 8461. Authority of the Office of Personnel Management

10       “(a) The Office shall pay all benefits that are payable  
11 under subchapter II of this chapter from the Fund.

12       “(b) The Office shall administer all provisions of this  
13 chapter not specifically required to be administered by the  
14 Board, the Executive Director, or any other agency.

15       “(c) The Office may make regulations to carry out the  
16 provisions of this chapter administered by the Office.

17       “(d) The Office may contract for the performance of any  
18 administrative services necessary to carry out its  
19 responsibilities under this chapter.

20       “§ 8462. Cost-of-living adjustment in basic plan annuities  
21                                      and survivor annuities

22       “(a) For the purpose of this section--

23               “(1) the term ‘base quarter’, when used with respect  
24 to a year, means the calendar quarter ending on September  
25 30, of such year; and

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1           “(2) the price index for a base quarter is the  
2           arithmetic mean of such index for the 3 months comprising  
3           such quarter.

4           “(b)(1) Except as provided in subsection (c) of this  
5           section, effective December 1 of each year in which the price  
6           index for the base quarter of such year exceeds the price  
7           index for the base quarter of the preceding year, each  
8           annuity which is payable from the Fund under subchapter II or  
9           IV of this chapter and commences not later than such December  
10          1 shall be increased by the percentage computed under  
11          paragraph (2) of this subsection.

12          “(2) The percentage by which an annuity is increased  
13          under paragraph (1) of this subsection in any year shall be  
14          the excess, if any, of--

15               “(A) the percentage of the increase in the price  
16               index for the base quarter of such year over the price  
17               index of the preceding year, over

18               “(B) 2 percent.

19          “(c)(1) The first increase (if any) made under  
20          subsection (b) of this section to an annuity payable to a  
21          participant who retires, to the surviving spouse or surviving  
22          former spouse of a deceased participant, or to the surviving  
23          spouse or surviving former spouse of a deceased annuitant  
24          whose annuity has never been increased under this subsection  
25          or subsection (b) of this section shall be equal to the



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1 product (adjusted to the nearest one-tenth of 1 percent) of--

2       “(A) one-twelfth of the applicable percentage of the  
3 adjustment computed under subsection (b) of this section,  
4 multiplied by

5       “(B)(i) the number of months (counting any portion  
6 of a month as a month) for which the annuity was payable  
7 before the effective date of the increase, or

8       “(ii) in the case of a survivor annuity payable to a  
9 surviving spouse or surviving former spouse of a deceased  
10 annuitant whose annuity has never been so increased, the  
11 number of months (counting any portion of a month as a  
12 month) since the annuity was first payable to the  
13 deceased annuitant.

14       “(2) Effective on its commencing date, an annuity  
15 referred to in subsection (b) of this section and payable to  
16 an annuitant's surviving spouse or surviving former spouse  
17 shall be increased by the total percentage by which the  
18 deceased annuitant's annuity had been increased under this  
19 section during the period beginning on the date the deceased  
20 annuitant's annuity commenced and ending on the date of the  
21 deceased annuitant's death.

22       “(d) The monthly installment of an annuity payable after  
23 adjustment under this section shall be rounded to the next  
24 lowest dollar, but the increase in the monthly installment  
25 under this section shall be at least \$1.

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1    "§ 8463. Rate of benefits

2       "Each annuity and disability benefit is stated as an  
3   annual amount, one-twelfth of which, fixed at the next lowest  
4   dollar, constitutes the monthly rate payable on the first  
5   business day of the first month beginning after the last day  
6   of the month for which the annuity or disability benefit has  
7   accrued.

8   "§ 8464. Commencement and termination of annuities

9       "(a)(1) Except as otherwise provided in this subchapter,  
10   the annuity of a participant under subchapter II of this  
11   chapter shall commence on the first day of the first month  
12   beginning after--

13       "(A) the date the participant separates from  
14   Government employment entitled to an immediate annuity  
15   under section 8411 of this title, or

16       "(B) in the case of a participant who is entitled to  
17   a deferred annuity under section 8412 of this title and  
18   is not entitled to an immediate annuity under section  
19   8411 of this title, the date elected by the participant  
20   under section 8412(a) of this title or the date the  
21   participant becomes 52 years of age, whichever is  
22   earlier,

23   as the case may be.

24       "(2) The annuity of an annuitant under this chapter  
25   terminates on the date of death or other terminating event

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1 provided by law.

2       “(b)(1) Except as otherwise provided in this chapter, a  
3 survivor annuity payable to an individual under this chapter  
4 shall commence on the first day of the first month beginning  
5 after the date of the death of the deceased participant or  
6 former participant on whose death such annuity is based.

7       “(2) A survivor annuity payable to a surviving spouse or  
8 an eligible former spouse of a deceased participant or  
9 deceased former participant under this chapter terminates on  
10 the last day of the last month ending before the surviving  
11 spouse or former spouse dies or, if the surviving spouse or  
12 former spouse is less than 55 years of age, remarries.

13       “§ 8465. Waiver, allotment, and assignment of benefits

14       “(a) An individual entitled to receive payment of  
15 benefits under subchapter II of this chapter may decline to  
16 accept all or any part of the amount of the benefits by a  
17 waiver signed and filed with the Office. The waiver may be  
18 revoked in writing at any time. Payment of the benefits  
19 waived may not be made for the period during which the waiver  
20 is in effect.

21       “(b) An individual entitled to receive payment of  
22 benefits under subchapter II of this chapter may make  
23 allotments or assignments of amounts from the benefits for  
24 such purposes as the Office considers appropriate.

25       “§ 8466. Application for benefits

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1       “(a) No payment of benefits based on the service of a  
2 former participant shall be made under this chapter unless an  
3 application for payment of the benefits is received by the  
4 Office before the one hundred and fifteenth anniversary of  
5 the former participant's birth.

6       “(b) Notwithstanding subsection (a) of this section,  
7 after the death of a participant or former participant, a  
8 benefit based on the participant's or former participant's  
9 service shall not be paid under subchapter IV of this chapter  
10 unless an application therefor is received by the Office  
11 within 30 years after the death or other event which  
12 establishes the entitlement to the benefit.

13       “§ 8467. Court orders

14       “(a) Payments under this chapter which would otherwise  
15 be made to a participant or former participant based upon the  
16 service of the participant or former participant shall be  
17 paid (in whole or in part) by the Office or the Executive  
18 Director, as the case may be, to another person if and to the  
19 extent that the terms of any court decree of divorce,  
20 annulment, or legal separation, or the terms of any court  
21 order or court-approved property settlement agreement  
22 incident to any court decree of divorce, annulment, or legal  
23 separation expressly provide. Any payment under this  
24 paragraph to a person bars recovery by any other person.

25       “(b) Subsection (a) of this section shall apply only to

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1 payments made by the Office or the Executive Director under  
2 this chapter after the date on which the Office or the  
3 Executive Director, as the case may be, receives written  
4 notice of such decree, order, or agreement, and such  
5 additional information and documentation as the Office or the  
6 Executive Director may require.

7 ``§ 8468. Annuities and pay on reemployment

8     ``(a) If an annuitant becomes employed in an appointive  
9 or elective position in the Government, payment of any  
10 annuity under subchapter II of this chapter to the annuitant  
11 terminates effective on the date of the employment, and the  
12 annuitant's service on and after the date the annuitant  
13 becomes so employed is covered by this chapter. Upon  
14 termination of the employment, the rights of the annuitant  
15 under subchapter II of this chapter shall be redetermined. If  
16 the annuitant dies while still so employed, a survivor  
17 annuity payable with respect to the deceased annuitant shall  
18 be redetermined as if the employment had otherwise terminated  
19 on the date of death.

20     ``(b) The amount of an annuity resulting from a  
21 redetermination of rights under this chapter pursuant to  
22 subsection (a) of this section shall not be less than the  
23 amount of the terminated annuity plus any increases under  
24 section 8462 of this title occurring after the termination of  
25 the annuity and before the commencement of the redetermined

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1 annuity.

2           "SUBCHAPTER VII--TRANSITION PROVISIONS

3       "§ 8471. Treatment of certain individuals subject to the  
4           Civil Service Retirement and Disability System

5       "(a)(1)(A) Any individual who is subject to subchapter  
6       III of chapter 83 of this title as an employee (as defined in  
7       section 8331(1) of this title, other than an individual  
8       employed by the government of the District of Columbia) or a  
9       Member (as defined in section 8331(2) of this title), whose  
10      service is not employment for the purposes of title II of the  
11      Social Security Act and chapter 21 of the Internal Revenue  
12      Code of 1954, and who is not required by section 8402 of this  
13      title to be a participant may elect to commence participation  
14      in the System.

15      "(B) An election made under subparagraph (A) of this  
16      paragraph shall be made in writing, in accordance with such  
17      regulations as the Office may prescribe, and not later than  
18      December 31, 1987, or, in the case of an individual who  
19      becomes an employee or Member after a break in service for a  
20      period that includes January 1, 1987, not later than 1 year  
21      after the date on which the individual resumes service.

22      "(2) Except as provided in section 8472(d) of this  
23      title, any individual who makes the election authorized by  
24      paragraph (1) of this subsection shall retain accrued credit  
25      for entitlement to benefits under subchapter III of chapter

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1 83 of title 5, United States Code, for service performed  
2 while subject to such subchapter.

3 "(3) An individual referred to in paragraph (1) of this  
4 subsection who becomes an employee or Member after a break in  
5 service for a period that includes January 1, 1987, may make  
6 deposits under section 8334 of this title for service  
7 performed before such date while subject to subchapter III of  
8 chapter 83 of this title.

9 "(b) Except as provided in section 8472(d) of this  
10 title, any individual who--

11 "(1) has an unrefunded lump-sum credit in the Fund  
12 under subchapter III of chapter 83 of this title,

13 "(2) is required by section 8402 of this title to be  
14 a participant, and

15 "(3) is not a participant referred to in section  
16 8473(a) of this title,  
17 shall retain accrued credit for entitlement to benefits under  
18 such subchapter for service performed while subject to such  
19 subchapter.

20 "(c) Except as provided in section 8472(d) of this  
21 title, any individual who--

22 "(1) has received a refund of a lump-sum credit in  
23 the Fund under subchapter III of chapter 83 of this  
24 title,

25 "(2) is required by section 8402 of this title to be

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1 a participant, and

2 "(3) is not a participant referred to in section

3 8473(a) of this title,

4 may make deposits under section 8334 of this title for

5 service performed before January 1, 1987, while subject to

6 subchapter III of chapter 83 of this title and shall, upon

7 making such deposits, be entitled to credit under such

8 subchapter for service covered by the deposits.

9 "(d) Survivor benefits shall be payable as provided in

10 subchapter III of chapter 83 of this title and this chapter

11 to the extent of the service creditable under such subchapter

12 (pursuant to this section) and this chapter in the case of a

13 participant referred to in subsection (a), (b), or (c) of

14 this section.

15 "§ 8472. Special rules for participants retaining

16 entitlement in the Civil Service Retirement and

17 Disability System

18 "(a) Service that is creditable under subchapter III of

19 chapter 83 of this title in the case of an individual who

20 retains entitlement in the Civil Service Retirement and

21 Disability System under section 8471 of this title shall be

22 credited as service under this chapter only--

23 "(1) for the purposes of determining eligibility to

24 retire entitled to an annuity under section 8411 or 8412

25 of this title and entitlement for disability benefits



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1 under subchapter V of this chapter; and

2 "(2) for the purpose of considering such service as  
3 years of participation in the System for the purposes of  
4 section 8422 of this title (relating to vesting under the  
5 thrift savings plan).

6 "(b) Service performed as a participant in the System by  
7 an individual referred to in subsection (a) of this section  
8 shall be credited under subchapter III of chapter 83 of this  
9 title only for the purpose of determining eligibility to  
10 retire entitled to an annuity under section 8335, 8336, or  
11 8338 of this title.

12 "(c)(1) The rates of basic pay in effect for an  
13 individual referred to in subsection (a) of this section on  
14 and after the date the individual begins to participate in  
15 the System shall be taken into account in computing the  
16 individual's average pay (as defined in section 8331(4) of  
17 this title) for the purposes of subchapter III of chapter 83  
18 of this title.

19 "(2) The rates of basic pay in effect for an individual  
20 referred to in subsection (a) of this section before the date  
21 the individual begins to participate in the System shall be  
22 taken into account in computing the individual's average pay  
23 for the purposes of this chapter.

24 "(d) Section 8337 of this title (relating to disability  
25 retirement) shall not apply in the case of a participant

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1 referred to in subsection (a).

2 ``§ 8473. Participants subject to the Federal Employees'

3 Retirement Contribution Temporary Adjustment

4 Act of 1983

5 `` (a)(1) The service of a participant with respect to  
6 which a reduced contribution is made under section 204(a) of  
7 the Federal Employees' Retirement Contribution Temporary  
8 Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note)  
9 shall be credited as service for the purposes of this chapter  
10 and shall be considered years of participation in the System  
11 for the purposes of section 8422(b)(1) of this title.

12 `` (2) Paragraph (1) of this subsection shall not apply to  
13 an individual who serves continuously as a Member of Congress  
14 during the period beginning December 31, 1983, and ending  
15 January 1, 1987.

16 `` (b)(1) On January 1, 1987, the amount computed under  
17 paragraph (2) of this subsection shall be transferred from  
18 the Fund to the Thrift Savings Fund in the case of a  
19 participant to whom subsection (a)(1) of this section  
20 applies. The amount transferred shall be credited to an  
21 account established for the individual pursuant to section  
22 8428(a) of this title.

23 `` (2)(A) The amount transferred from the Fund in the case  
24 of a participant pursuant to paragraph (1) of this subsection  
25 shall be equal to the sum of--

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1       “(1) two times the total amount deducted and  
2 withheld from the basic pay of the participant pursuant  
3 to section 224(a) of the Federal Employees’ Retirement  
4 Contribution Temporary Adjustment Act of 1983 (97 Stat.  
5 1107; 5 U.S.C. 8331 note); and

6       “(11) interest on the amount referred to in clause  
7 (1) of this subparagraph computed at the annual rate  
8 determined under the second sentence of this subparagraph  
9 and compounded annually, as if a fraction of such amount  
10 (determined as provided in subparagraph (B) of this  
11 paragraph) had been deposited to the credit of the Fund  
12 at the end of each month for which amounts were deducted  
13 and withheld from the basic pay of the participant as  
14 described in clause (1) of this subparagraph.

15 The annual rate referred to in clause (11) for an amount  
16 transferred from the Fund in any calendar year shall be equal  
17 to the interest rate determined for such calendar year under  
18 section 8334(e) of this title.

19       “(B) In the case of any participant to whom paragraph  
20 (1) of this subsection applies--

21       “(1) the numerator of the fraction referred to in  
22 subparagraph (A)(11) of this paragraph is one; and

23       “(11) the denominator of the fraction is the number  
24 of months for which amounts were deducted and withheld  
25 from the basic pay of the participant as described in

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1 subparagraph (A)(1) of this paragraph.

2 "(3) For the purposes of section 8422 of this title--

3 "(A) one-half of the amount computed in the case of  
4 a participant referred to in subsection (a) of this  
5 section pursuant to paragraph (2) of this subsection  
6 shall be treated as a contribution made under section  
7 8421(a) of this title; and

8 "(B) one-half of such amount shall be treated as a  
9 contribution made by the employing agency of the  
10 participant pursuant to section 8421(b) of this title.

11 "(4) All amounts transferred from the Fund pursuant to  
12 paragraph (1) of this subsection shall be transferred in the  
13 form of interest-bearing securities of the United States.

14 "(c) The total amount of any deposit made to the Fund  
15 under section 8334(j) of this title (relating to deposits  
16 covering periods of military service) in the case of a  
17 participant referred to in paragraph (1) of this subsection  
18 shall be refunded to the participant. The refund shall be  
19 paid out of sums in the Fund.

20 "§ 8474. Reemployed annuitants under a Government retirement  
21 system.

22 "(a) For the purposes of this section--

23 "(1) the term 'annuitant'--

24 "(A) in the case of the Civil Service Retirement  
25 and Disability System, shall have the same meaning

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1 provided in section 8331(9) of this title;

2 "(5) in the case of the Foreign Service

3 Retirement and Disability System, shall have the same

4 meaning provided in section 804(1) of the Foreign

5 Service Act of 1980 (22 U.S.C. 4044(1)), except that

6 such term does not include a survivor; and

7 "(C) in the case of the Central Intelligence

8 Agency Retirement and Disability System, means--

9 "(1) any participant who is referred to in

10 section 203 of the Central Intelligence Agency

11 Retirement Act of 1964 for Certain Employees, and

12 "(11) any individual who formerly was such a

13 participant,

14 entitled to an annuity from the Central Intelligence

15 Agency Retirement and Disability Fund;

16 "(2) the term 'Government retirement system' means--

17 "(A) the Civil Service Retirement and Disability

18 System under subchapter III of chapter 83 of this

19 title;

20 "(3) the Foreign Service Retirement and

21 Disability System under chapter 8 of the Foreign

22 Service Act of 1980 (22 U.S.C. 4041 et seq.); and

23 "(C) the Central Intelligence Agency Retirement

24 and Disability System under the Central Intelligence

25 Agency Retirement Act of 1964 for Certain Employees

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1 (50 U.S.C. 423 note); and

2 "(3) the term 'reemployed annuitant' means an  
3 annuitant who becomes employed by the Government after  
4 the effective date of the Civil Service Pension Reform  
5 Act of 1985 and is required by section 8432 of this title  
6 to be a participant.

7 "(b) A reemployed annuitant shall retain entitlement in  
8 the Government retirement system under which the annuitant is  
9 receiving an annuity.

10 "(c)(1) Service that is creditable under the Government  
11 retirement system of a reemployed annuitant shall be credited  
12 under this chapter only for the purpose of determining  
13 eligibility to retire entitled to an annuity under section  
14 8411 of this title.

15 "(2) Service performed as a reemployed annuitant shall  
16 not be creditable service for the purposes of the Government  
17 retirement system of the reemployed annuitant.

18 "(d)(1) The rates of basic pay in effect for a  
19 reemployed annuitant on and after the date the annuitant  
20 begins to participate in the system shall be taken into  
21 account in computing the annuitant's average pay for the  
22 purposes of the Government retirement system under which the  
23 annuitant was receiving an annuity when the reemployment  
24 commenced.

25 "(2) The rates of basic pay in effect for a reemployed

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1 annuitant before the date the annuitant begins to participate  
2 in the System shall be taken into account in computing the  
3 annuitant's average pay for the purposes of this chapter.

4     "(e) Deductions may not be withheld from the pay of a  
5 reemployed annuitant for the purposes of the reemployed  
6 annuitant's Government retirement system while the reemployed  
7 annuitant is a participant in the System.

8     "\$ 8475. Exemption from certain offset provisions of the  
9                 Social Security Act

10     "Sections 202(b)(4), 202(c)(2), 202(e)(7), 202(f)(2),  
11 202(g)(4), and 215(a)(7) of the Social Security Act shall not  
12 apply in the case of a person who is a participant referred  
13 to in section 8471 of this title.

14     "\$ 8476. Regulations

15     "The Office may prescribe regulations to carry out this  
16 subchapter.

17     "SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT  
18                 SYSTEM.

19     "\$ 8491. Civil Service Thrift Investment Board

20     "(a) There is established in the executive branch of the  
21 Government a Civil Service Thrift Investment Board.

22     "(b)(1) The Board shall be composed of--

23         "(A) the Chairman of the Federal Reserve Board;

24         "(B) the Secretary of the Treasury;

25         "(C) the Director; and

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1       “(D) two representatives of Federal employee  
2 organizations appointed by the President, one of whom  
3 shall be a representative from a labor organization (as  
4 defined in section 7103(a)(4) of this title) and one of  
5 whom shall be a representative from an organization for  
6 employees who are managers.

7       “(2) If an office referred to in paragraph (1)(A),  
8 (1)(B), or (1)(C) of this subsection is vacant, the person  
9 acting as the officer in such office shall be a member of the  
10 Board while acting as such officer.

11       “(3) The Chairman of the Federal Reserve Board shall be  
12 the Chairman of the Board.

13       “(4) The members of the Board appointed under paragraph  
14 (1)(D) of this subsection shall serve until replaced by the  
15 President.

16       “(c) The Board shall--

17           “(1) establish policies and prescribe regulations  
18 for--

19               “(A) the investment and management of the Thrift  
20 Savings Fund; and

21               “(B) the administration of subchapter III of  
22 this chapter and the provisions of subchapter IV of  
23 this chapter which relate to survivor annuities  
24 payable out of the Thrift Savings Fund;

25           “(2) review the performance of investments made for



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1 the Thrift Savings Fund;

2 "(3) without regard to civil service and  
3 classification laws, fix the rate of pay of the Executive  
4 Director;

5 "(4) supervise the Executive Director; and

6 "(5) review and approve the budget of the Board.

7 "(d)(1) The Board may--

8 "(A) adopt, alter, and use a seal;

9 "(B) adopt, amend, and repeal regulations to carry  
10 out its functions;

11 "(C) disapprove any action of the Executive  
12 Director;

13 "(D) except as provided in paragraph (2) of this  
14 subsection, direct the Executive Director to take such  
15 action as the Board considers appropriate to carry out  
16 the provisions of this subchapter and subchapter III of  
17 this chapter, the provisions of subchapter IV of this  
18 chapter which relate to survivor annuities payable out of  
19 the Thrift Savings Fund, and the policies of the Board;

20 "(E) upon the concurring votes of four members,  
21 remove the Executive Director from office for good cause  
22 shown; and

23 "(F) take such other action as may be necessary to  
24 carry out the functions of the Board.

25 "(2) Except in the case of investments required by

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1 section 8427 of this title to be invested in securities of  
2 the Government, the Board may not direct the Executive  
3 Director or any contractor under a contract awarded under  
4 section 8493(c)(2) this title to invest or to cause to be  
5 invested any sums in the Thrift Savings Fund in a specific  
6 asset or to dispose of or cause to be disposed any specific  
7 asset of such Fund.

8 ''S 8492. Civil Service Thrift Advisory Committee

9 ''(a)(1) The Board shall establish a Civil Service Thrift  
10 Advisory Committee (hereafter in this subchapter referred to  
11 as the 'Advisory Committee').

12 ''(2)(A) The Advisory Committee shall be composed of 6  
13 members appointed as provided in subparagraph (B) of this  
14 paragraph.

15 ''(B) The members of the Advisory Committee shall be  
16 appointed by action agreed to by a majority of the members  
17 the Board. Three of the members of the Advisory Committee  
18 shall be appointed from among investment asset managers not  
19 employed by the Government and three of the members of the  
20 Advisory Committee shall be appointed from among  
21 administrators of thrift savings plans established for  
22 employees of private sector enterprises.

23 ''(3) The Board shall prescribe the terms and conditions  
24 of service of the members of the Advisory Committee.

25 ''(b) The Advisory Committee shall--

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1       “(1) advise the Board and the Executive Director on  
2 matters relating to--

3               “(A)(1) investment policy for the Thrift Savings  
4 Funds;

5               “(11) selection of the types of investment funds  
6 which are appropriate for investment of sums in the  
7 Thrift Savings Fund; and

8               “(111) selection of investment managers for the  
9 purpose of contracting for the administration of  
10 investment funds under section 8493(c)(2) of this  
11 title; and

12               “(B)(1) the performance of the duties of the  
13 Board and the Executive Director under the provisions  
14 of this subchapter and subchapter III of this chapter  
15 and the provisions of subchapter IV of this chapter  
16 which relate to survivor annuities payable out of the  
17 Thrift Savings Fund; and

18               “(11) the administration of such provisions; and

19               “(2) review the performance of investments made for  
20 the Thrift Savings Fund.

21       “§ 8493. Executive Director

22       “(a)(1) The Board shall appoint an Executive Director by  
23 action agreed to by a majority of the members of the Board.  
24 The Executive Director shall have substantial experience,  
25 training, or expertise in the management of financial

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1 Investments.

2       “(2) The Board shall prescribe the terms and conditions  
3 of service of the Executive Director.

4       “(b) The Executive Director shall--

5           “(1) carry out the policies established by the  
6 Board;

7           “(2) invest and manage the Thrift Savings Fund in  
8 accordance with the investment and other policies  
9 established by the Board;

10          “(3) provide for payment of annuities and other  
11 authorized distributions from the Thrift Savings Fund  
12 under this chapter; and

13          “(4) administer the provisions of this subchapter,  
14 subchapter III of this chapter, the provisions of  
15 subchapter IV of this chapter which relate to survivor  
16 annuities payable out of the Thrift Savings Fund, and the  
17 regulations prescribed by the Board.

18       “(c) The Executive Director, may--

19           “(1) without regard to civil service and  
20 classification laws, appoint, employ, and fix the  
21 compensation of such personnel as may be necessary to  
22 carry out the provisions of this subchapter and  
23 subchapter III of this chapter and the provisions of  
24 subchapter IV of this chapter which relate to survivor  
25 annuities payable out of the Thrift Savings Fund;

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1           “(2) enter into such contracts or other arrangements  
2     (including contracts for the performance of  
3     administrative services), and make such modifications  
4     thereof, as may be appropriate to carry out the  
5     provisions of this subchapter and section 8427 of this  
6     title and the policies of the Board;

7           “(3) except as provided in section 552a of this  
8     title, obtain from any Federal agency, including any  
9     independent establishment or instrumentality of the  
10    United States, advice, information, estimates,  
11    statistics, and such other assistance as the Executive  
12    Director considers necessary to carry out the provisions  
13    of this subchapter and subchapter III of this chapter,  
14    the provisions of subchapter IV of this chapter which  
15    relate to survivor annuities payable out of the Thrift  
16    Savings Fund, and the policies of the Board;

17          “(4) make such payments out of sums in the Thrift  
18    Savings Fund as the Executive Director determines are  
19    necessary to carry out the provisions of this subchapter,  
20    subchapter III of this chapter, the provisions of  
21    subchapter IV of this chapter which relate to survivor  
22    annuities payable out of the Thrift Savings Fund, and the  
23    policies of the Board;

24          “(5) pay the compensation, per diem, and travel  
25    expenses of personnel from the Thrift Savings Fund;

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1       “(6) accept and utilize the services of individuals  
2       employed intermittently in the Government service and  
3       reimburse such individuals for travel expenses, as  
4       authorized by section 5703 of this title, including per  
5       diem as authorized by section 5722 of this title;

6       “(7) except as otherwise expressly prohibited by law  
7       or the policies of the Board, delegate any of the  
8       Executive Director's functions to such officers and  
9       employees under the Board as the Executive Director may  
10      designate and authorize such successive redelegations of  
11      such functions to such officers and employees under the  
12      Board as the Executive Director may consider to be  
13      necessary or appropriate; and

14      “(8) take such other actions as are appropriate to  
15      carry out the functions of the Executive Director.

16    “§ 8494. Investment policy

17      “The Board shall develop investment policies under  
18      section 8491(c)(1) of this title which provide for--

19      “(1) prudent investments suitable for accumulating  
20      funds for payment of retirement income;

21      “(2) investment strategies which do not require a  
22      significant level of active investment decisionmaking in  
23      the case of the investment funds established under  
24      subparagraphs (B) and (C) of section 8427(b)(1) of this  
25      title;

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1           ''(3) low administrative costs; and

2           ''(4) investments likely to receive broad acceptance  
3       by participants and the public.

4       ''S 8495. Administrative provisions

5       ''(a) The Board shall meet--

6           ''(1) not less than once during each fiscal year; and

7           ''(2) at additional times at the call of the  
8       Chairman.

9       ''(b)(1) Except as provided in section 8491(d)(1)(E) of  
10   this title, the Board shall perform the functions and  
11   exercise the powers of the Board on a majority vote of a  
12   quorum of the Board.

13       ''(2) A vacancy on the Board shall not impair the  
14   authority of a quorum of the Board to perform the functions  
15   and exercise the powers of the Board.

16       ''(c) Three members of the Board shall constitute a  
17   quorum for the transaction of business.

18       ''(d)(1) Each member of the Board who is not a Federal  
19   employee and each member of the Advisory Committee shall be  
20   compensated at the daily rate of basic pay payable for grade  
21   GS-18 under the General Schedule for each day or part thereof  
22   during which such member is engaged in performing a function  
23   of the Board or Advisory Committee, as the case may be.

24       ''(2) Each member of the Board who is not a Federal  
25   employee and each member of the Advisory Committee shall be

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1 paid travel, per diem, and other necessary expenses under  
2 subchapter I of chapter 57 of this title while traveling away  
3 from his home or regular place of business in the performance  
4 of the duties of the Commission or Advisory Board, as the  
5 case may be.

6 "(e) The accrued annual leave of any employee who is a  
7 member of the Board shall not be charged for any time used in  
8 performing service for the Board during any work period.

9 "(f) Section 14(a)(2) of the Federal Advisory Committee  
10 Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the  
11 Advisory Committee.

12 "§ 8496. Fiduciary responsibilities; liability and penalty

13 "(a) For the purposes of this section--

14 "(1) the term 'fiduciary' means--

15 "(A) with respect to the Thrift Savings Fund,  
16 each member of the Board and the Executive Director;  
17 and

18 "(B) any person who, with respect to the Thrift  
19 Savings Fund, is described in section 3(21)(A) of the  
20 Employee Retirement Income Security Act of 1974 (29  
21 U.S.C. 1002(21)(A));

22 "(2) the term 'party in interest' includes--

23 "(A) any fiduciary;

24 "(B) any counsel to a fiduciary;

25 "(C) any person providing services to the Board



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1 or the Executive Director;

2 "(D) a labor organization the members of which  
3 are participants;

4 "(E) a spouse, ancestor, lineal descendant, or  
5 spouse of a lineal descendant of a person described  
6 in subclause (A), (B), or (C) of this clause; and

7 "(F) a corporation, partnership, or trust or  
8 estate of which, or in which, 50 percent or more of--

9 "(i) the combined voting power of all  
10 classes of stock entitled to vote or the total  
11 value of shares of all classes of stock of such  
12 corporation;

13 "(ii) the capital interest or profits  
14 interest of such partnership; or

15 "(iii) the beneficial interest of such trust  
16 or estate,

17 is owned directly or indirectly, or held by a person  
18 described in subclause (A), (B), (C), or (E) of this  
19 clause; and

20 "(3) the term 'person' means an individual,  
21 partnership, joint venture, corporation, mutual company,  
22 joint-stock company, trust, estate, unincorporated  
23 organization, association, or labor organization.

24 "(b)(1) A fiduciary shall discharge his responsibilities  
25 with respect to the Thrift Savings Fund or applicable portion

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1 thereof solely in the interest of the participants and  
2 beneficiaries and--

3        “(A) for the exclusive purpose of--

4                “(1) providing benefits to participants and  
5        their beneficiaries; and

6                “(11) defraying reasonable expenses of  
7        administering the Thrift Savings Fund or applicable  
8        portions thereof;

9        “(B) with the care, skill, prudence, and diligence  
10       under the circumstances then prevailing that a prudent  
11       individual acting in a like capacity and familiar with  
12       such matters would use in the conduct of an enterprise of  
13       a like character and with like objectives; and

14        “(C) to the extent permitted by section 8427 of this  
15       title, by diversifying the investments of the Thrift  
16       Savings Fund or applicable portions thereof so as to  
17       minimize the risk of large losses, unless under the  
18       circumstances it is clearly prudent not to do so.

19        “(2) No fiduciary may maintain the indicia of ownership  
20       of any assets of the Thrift Savings Fund outside the  
21       jurisdiction of the district courts of the United States.

22        “(c) A fiduciary shall not--

23                “(1) deal with any assets of the Thrift Savings Fund  
24        for his own account;

25                “(2) act, in his individual or any other capacity,

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1 in any transaction involving the Thrift Savings Fund on  
2 behalf of a party whose interests are adverse to the  
3 interests of the Thrift Savings Fund or the interests of  
4 its participants or beneficiaries;

5 "(3) receive any consideration for his own personal  
6 account from any party dealing with sums credited to the  
7 Thrift Savings Fund in connection with a transaction  
8 involving assets of the Thrift Savings Fund, except fees  
9 which the fiduciary is entitled to receive as provided in  
10 a contract awarded under section 8493(c)(2) of this  
11 title;

12 "(4) permit the transfer of any assets of the Thrift  
13 Savings Fund to or the use of such assets by any person  
14 known to be a party in interest, except in return for  
15 adequate consideration; or

16 "(5) permit the acquisition of any property from or  
17 services by any person known to be a party in interest,  
18 except in exchange for adequate consideration.

19 "(c) This section does not prohibit any fiduciary from--

20 "(1) receiving any benefit which the fiduciary is  
21 entitled to receive under this chapter as a participant,  
22 a former participant, or a beneficiary of a participant  
23 or former participant;

24 "(2) receiving any reasonable compensation  
25 authorized by this title for services rendered, or for

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1 reimbursement of expenses properly and actually incurred,  
2 in the performance of the fiduciary's duties under this  
3 chapter; or

4 "(3) serving as a fiduciary in addition to being an  
5 officer, employee, agent, or other representative of a  
6 party in interest.

7 "(e)(1)(A) Any fiduciary that breaches the  
8 responsibilities, duties, and obligations set out in  
9 subsection (b) of this section or violates subsection (c) of  
10 this section shall be liable to the Thrift Savings Fund for  
11 any losses to such fund resulting from each such breach or  
12 violation and to restore to such fund any profits made by the  
13 fiduciary through use of assets of such fund by the  
14 fiduciary, and shall be subject to such other equitable or  
15 remedial relief as a court considers appropriate. A fiduciary  
16 may be removed for a breach referred to in the preceding  
17 sentence.

18 "(B) The Attorney General of the United States may  
19 assess a civil penalty against a party in interest engaging  
20 in a transaction prohibited by subsection (c) of this  
21 section. The amount of such penalty may not exceed 5 percent  
22 of the amount involved (as defined in section 4975(f)(4) of  
23 the Internal Revenue Code of 1954); except that, if the  
24 transaction is not corrected (in such manner as the Attorney  
25 General shall prescribe by regulation consistent with section

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1 4975(f)(5) of the Internal Revenue Code of 1954) within 90  
2 days after the date the Attorney General transmits notice to  
3 the party in interest (or such longer period as the Attorney  
4 General may permit), such penalty may be in an amount not  
5 more than 100 percent of the amount involved.

6 "(C) A fiduciary shall not be liable under subparagraph  
7 (A) of this paragraph with respect to a breach of fiduciary  
8 duty under subsection (b) of this section committed before  
9 becoming a fiduciary or after ceasing to be a fiduciary.

10 "(2) A civil action may be brought in the district  
11 courts of the United States--

12 "(A) by the Attorney General of the United States--

13 "(1) to determine and enforce a liability under  
14 paragraph (1)(4) of this subsection; or

15 "(11) to collect any civil penalty under  
16 paragraph (1)(9) of this subsection; or

17 "(B) by the Attorney General of the United States,  
18 any participant, annuitant, former participant who is  
19 entitled to a deferred annuity under section 9412 of this  
20 title, other beneficiary, or fiduciary--

21 "(1) to enjoin any act or practice which  
22 violates any provision of subsection (b) or (c) of

23 this section; or

24 "(11) to obtain any other appropriate equitable  
25 relief to redress a violation of any such provision.

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1       “(3) An action may not be commenced under paragraph (2)  
2 of this subsection with respect to a fiduciary's breach of  
3 any responsibility, duty, or obligation under subsection (b)  
4 of this section or a violation of subsection (c) of this  
5 section after the earlier of--

6           “(A) 6 years after (i) the date of the last action  
7 which constituted a part of the breach or violation, or  
8 (ii) in the case of an omission, the latest date on which  
9 the fiduciary could have cured the breach or violation;  
10 or

11           “(B) 3 years after the earliest date on which the  
12 plaintiff had actual knowledge of the breach or  
13 violation; except that, in the case of fraud or  
14 concealment, such action may be commenced not later than  
15 6 years after the date of discovery of such breach or  
16 violation.”.

17       (b) The table of chapters at the beginning of part III of  
18 such title is amended by inserting after the item relating to  
19 chapter 83 the following new item:

“84. Civil Service Pension System..... d401.”.

20           TITLE II--AMENDMENTS RELATING TO SOCIAL SECURITY

21                   AMENDMENTS TO THE SOCIAL SECURITY ACT

22       - Sec.-221. Section 210(a)(5) of the Social Security Act is  
23 amended--

24           (1) by striking out “or” at the end of subparagraph

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1 (F);

2 (2) by striking out the semicolon at the end of  
3 subparagraph (G) and inserting in lieu thereof "., or";  
4 and

5 (3) by adding at the end thereof the following new  
6 subparagraph:

7 "(H) service performed by an individual after  
8 such individual has commenced participation in the  
9 Civil Service Pension System pursuant to section 8471  
10 of title 5, United States Code;".

11 AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

12 Sec. 222. Section 3121(b)(5) of the Internal Revenue Code  
13 of 1954 is amended--

14 (1) by striking out "or" at the end of subparagraph  
15 (F);

16 (2) by striking out the semicolon at the end of  
17 subparagraph (G) and inserting in lieu thereof "., or";  
18 and

19 (3) by adding at the end thereof the following new  
20 subparagraph:

21 "(H) service performed by an individual after  
22 such individual has commenced participation in the  
23 Civil Service Pension System pursuant to section 8471  
24 of title 5, United States Code;".

25 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS

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## 1 EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION

## 2 TEMPORARY ADJUSTMENT ACT OF 1993

3 Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),  
4 203(a)(4)(B), 204(a), 205(b)(2)(A)(1), and 206(c)(3) of the  
5 Federal Employees' Retirement Contribution Temporary  
6 Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 6331 note)  
7 are amended by striking out "January 1, 1986" each place it  
8 appears and inserting in lieu thereof "January 1, 1987".

9 (b) Section 205 of such Act is amended by striking out  
10 "and 1986" in subsections (b) and (c) and inserting in lieu  
11 thereof "1986, and 1987".

## 12 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED

## 13 STATES CODE

14 Sec. 302. (a) Section 6331(1)(G) of title 5, United  
15 States Code, is amended to read as follows:

16 "(G) an individual first employed by the  
17 government of the District of Columbia before January  
18 1, 1987;".

19 (b) Section 8332 of such title is amended by adding at  
20 the end thereof the following new subsection:

21 "(n) Except as provided in section 8472(b) of this  
22 title, service performed while a participant in the Civil  
23 Service Pension System under chapter 24 of this title is not  
24 creditable under this section.".

25 (c)(1) The first sentence of section 8333(b) of such



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1 title is amended by inserting "or chapter 84 of this title"  
2 after "subject to this subchapter".

3 (2) Section 8333(c) of such title is amended by adding at  
4 the end thereof the following new sentence: "The  
5 requirements of the first sentence shall apply only with  
6 respect to the civilian service performed by a Member while  
7 not a participant in the Civil Service Pension System under  
8 chapter 84 of this title."

9 (d) Subsection (a) of section 8334 of such title is  
10 amended--

11 (1) In the first sentence of paragraph (1), by  
12 striking out "The employing" and inserting in lieu  
13 thereof "Except as provided in paragraph (3) of this  
14 subsection, the employing"; and

15 (2) by adding at the end thereof the following new  
16 paragraph:

17 "(3)(A) In the case of an employee or Member who was  
18 subject to this subchapter before January 1, 1984, and whose  
19 service--

20 "(1) is employment for the purposes of title II of  
21 the Social Security Act and chapter 21 of the Internal  
22 Revenue Code of 1954; and

23 "(11) is not creditable service for any purpose  
24 under chapter 84 of this title,

25 an employing agency shall deduct and withhold from the basic

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1 pay of the employee or Member under paragraph (1) of this  
2 subsection during any pay period only the amount computed  
3 pursuant to subparagraph (B) of this paragraph.

4     “(B) The amount deducted and withheld from basic pay  
5 during any pay period pursuant to subparagraph (A) of this  
6 paragraph in the case of an employee or Member referred to in  
7 such subparagraph shall be the excess of--

8         “(1) the amount determined by multiplying the  
9 percent applicable to the employee or Member under  
10 paragraph (1) of this subsection by the basic pay payable  
11 for such pay period, over

12         “(11) the amount of the taxes deducted and withheld  
13 from such basic pay under section 3101(a) of the Internal  
14 Revenue Code of 1954 for such pay period.”.

15     (e) Section 8339 of such title is amended by adding at  
16 the end thereof the following new subsection:

17         “(o)(1) Effective on the first day of the month in which  
18 an annuitant or a survivor becomes 62 years of age, the  
19 annuity or survivor annuity computed under the other  
20 subsections of this section shall be reduced by an amount  
21 equal to the amount (if any) by which the annuitant's or  
22 survivor annuitant's benefit under title II of the Social  
23 Security Act exceeds the amount of such benefit to which he  
24 would be entitled if the service described in paragraph (2)  
25 of this subsection were not taken into account.

1       "(2) The service described in this paragraph is the  
2       civilian service that is covered by amounts deducted and  
3       withheld as provided in section 8334(a)(3) of this title and  
4       is taken into account for the purpose of computing--

5           "(A) the annuity or survivor annuity; and

6           "(B) benefits under such title of the Social  
7       Security Act."

8 (f) Section 8347(a) of such title is amended by adding at  
9 the end thereof the following: ``The Office may contract for  
10 the performance of administrative services necessary to carry  
11 out its responsibilities under this subchapter.'`.

12 (g) Section 9348(a) of such title is amended--

13 (1) in paragraph (1)(A), by inserting ``or the  
14 provisions of chapter 84 of this title which relate to  
15 benefits payable out of the Fund'' after ``subchapter'';  
16 and

17 (2) in paragraph (2), by inserting ``chapter 84 of  
18 this title,`` after ``chapter``.

CONFORMING PROVISIONS FOR THE POSTAL SERVICE RETIREMENT  
SYSTEM

21       Sec. 303. Section 1005(d) of title 39, United States  
22       Code, is amended to read as follows:-----

23       “(d) Officers and employees of the Postal Service (other  
24       than the Governors) shall be covered by chapters 83 and 84 of  
25       title 5 according to the provisions of such chapters. The

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1 Postal Service shall withhold from pay and shall pay into the  
2 Civil Service Retirement and Disability Fund the amounts  
3 specified in or determined under such chapter 83. The Postal  
4 Service shall pay into the Civil Service Retirement and  
5 Disability Fund the amounts specified or determined under  
6 subchapters II and V of such chapter 84. The Postal Service  
7 shall pay into the Civil Service Thrift Savings Fund the  
8 amounts specified in or determined under subchapter III of  
9 such chapter 84.''.

12 GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN THE CIVIL  
11 SERVICE PENSION SYSTEM

12 Sec. 324. (a) Subsection (b) of section 3702 of title 5,  
13 United States Code, is amended--

14 (1) by inserting ''(1)'' after ''(b)''; and

15 (2) by adding at the end thereof the following new  
16 paragraph:

17 ''(2) Paragraph (1) of this subsection shall not apply to  
18 an employee who is required by section 9402 of this title to  
19 be a participant in the Civil Service Pension System.''.

20 (b) Subsection (a) of section 8707 of such title is  
21 amended--

22 (1) by striking out ''(a) During'' and inserting in  
23 lieu thereof ''(a)(1) Except as provided in paragraph (2)  
24 of this subsection, during''; and

25 (2) by adding at the end thereof the following new

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1 paragraph:

2 "(2) Paragraph (1) of this subsection shall not apply to  
3 an employee who is required by section 8442 of this title to  
4 be a participant in the Civil Service Pension System."

5 (c) Subsection (a) of section 8729 of such title is  
6 amended--

7 (1) by striking out "(a) For" and inserting in lieu  
8 thereof "(a)(1) Except as provided in paragraph (2) of  
9 this subsection, for"; and

10 (2) by adding at the end thereof the following new  
11 paragraph:

12 "(2) For each period for which an employee referred to  
13 in section 8727(a)(2) of this title is insured under a policy  
14 of insurance referred to in paragraph (1) of this subsection,  
15 a sum equal to one and one-half times the amount which, but  
16 for such section 8727(a)(2), would be withheld from the pay  
17 of the employee under section 8727(a)(1) of this title shall  
18 be contributed from the appropriation or fund which is used  
19 to pay the employee."

20 HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

21 Sec. 305. (a) Section 8901(12) of title 5, United States  
22 Code, is amended--

23 --(1) in subparagraph (C)(i)--

24 (A) by inserting "or 8467" after "8345(j)";

25 and

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1 (B) by inserting "or 8434" after "8341(h)";

2 and

3 (2) in subparagraph (C)(ii)--

4 (A) by inserting "or 8434" after "8341(h)";

5 and

6 (B) by inserting "or 8467" after "8345(j)".

7 (b)(1) Subsection (b) of section 8905 of such title is  
8 amended--

9 (A) by redesignating subparagraphs (A), (B), and (C)  
10 of paragraph (1) as clauses (i), (ii), and (iii),  
11 respectively;

12 (B) by redesignating paragraphs (1) and (2) as  
13 subparagraphs (A) and (B), respectively;

14 (C) by inserting "(i)" after "(b)"; and

15 (D) by adding at the end thereof the following new  
16 paragraph (2):

17 "(2) A member of family of a deceased employee or  
18 annuitant who was enrolled in a health benefit plan under  
19 this chapter on the date of death of the employee or  
20 annuitant may continue the enrollment under the conditions of  
21 eligibility prescribed in regulations issued by the  
22 Office."

23 (2) Subsection (c)(1) of such section is amended--

24 (A) in subparagraph (B), by inserting "or  
25 8435(a)(1)"; and

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1 (B) in the second sentence--

2 (i) by inserting ``or 8434`` after ``8341(r)``;

3 and

4 (ii) by inserting ``or 8467`` after ``8345(j)``.

5 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND INSTRUMENTALITIES

6 Sec. 306. Section 2105(c) of title 5, United States Code,  
7 is amended by inserting ``chapter 84,`` after ``chapter  
8 81`` in clause (2) of the first sentence.

9 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

10 FIRST YEAR EXPENSES OF THE CIVIL SERVICE THRIFT INVESTMENT

11 MANAGEMENT SYSTEM

12 Sec. 401. (a) Notwithstanding section 8425(c)(3) of title  
13 5, United States Code, as added by section 101 of this Act,  
14 the expenses incurred in the administration of the Civil  
15 Service Thrift Investment Management System prescribed in  
16 subchapter VIII of chapter 84 of such title, as added by  
17 section 101 of this Act, during fiscal years 1986 and 1987  
18 shall be paid from sums appropriated pursuant to subsection  
19 (b).

20 (b) There are authorized to be appropriated to the Civil  
21 Service Thrift Investment Board, for fiscal years 1986 and  
22 1987, such sums as may be necessary to pay the expenses  
23 incurred in the administration of the Civil Service Thrift  
24 Investment Management System prescribed in subchapter VIII of  
25 chapter 84 of title 5, United States Code, as added by

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1 section 101 of this Act, during such fiscal years.

2 EFFECTIVE DATES

3 Sec. 402. (a) Except as provided in subsection (b), this  
4 Act and the amendments made by this Act shall take effect  
5 January 1, 1987.

6 (b) Subchapter VIII of chapter 84 of title 5, United  
7 States Code (relating to the Civil Service Thrift Investment  
8 Management System), as added by section 101, shall take  
9 effect on the date of enactment.

10 (c) The program required by section 8426(e) of title 5,  
11 United States Code, as added by section 101(a) of this Act,  
12 shall be established not later than January 1, 1988.



### Section-by-Section Analysis

The opening section (section 2) provides for the purpose of the legislation. The purposes delineated include providing a stable and flexible retirement plan which is comparable to good private sector retirement benefits plans, enhancing portability of retirement assets between Federal jobs and jobs outside the Federal government, and ensuring a fully funded and financially sound federal retirement program.

#### TITLE I - CIVIL SERVICE PENSION SYSTEM

Section 101(a) amends title 5, United States Code, by inserting a new chapter 84, entitled "Civil Service Pension System" (CSPS).

Subchapter I of this chapter provides definitions for administration of the CSPS, many of which are the same as or similar to those used in chapter 83 of title 5. New or modified definitions include average pay (highest 5 years) and basic pay (rate established pursuant to law, without regard to any limits on authority to pay). Definitions of firefighter and law enforcement officer are more specific than those used in chapter 83. The subchapter also identifies the participants in the new CSPS and specifies its relationship to the Social Security Act. Employees of the District of Columbia are specifically excluded. Employees of the current Civil Service Retirement System (CSRS) are included if they so choose pursuant to Section 8471.

Subchapter II describes the basic retirement plan, which is a defined benefits plan applicable to all permanent employees covered by the Social Security System on or after January 1, 1984 and any employees subject to the CSRS who elect to join the CSPS.

Section 8411 lists the combinations of age and service which establish entitlement to an immediate annuity.

Subsections (a) and (b) provide for an immediate annuity at age 55 with 10 years of service and age 62 with 5 years of service.

Subsections (c) and (d) provide for an immediate annuity to the special retirement classes (law enforcement officer, firefighter, or air traffic controller) after 25 years of service in the occupation.

Subsection (e) provides for an immediate annuity to an employee who is separated from the service involuntarily and who has completed 25 years of service or is not less than age 50 with 20 years of service.

Subsection (f) provides that the annuity authorized by this section is computed under sections 8413 through 8415 of this title.

Section 8412 provides for deferred retirement at age 62 to a participant who is under age 62 and separates from Federal employment after completing 5 years of service or at age 55 to a participant who is under age 55 and separates from Federal employment after completing 10 years of service.

Section 8413 provides the formula for computing the annuity a participant is entitled to receive. The formula is one percent of the average pay over the five highest consecutive years multiplied by the number of years of service. For the special retirement classes, an annuity supplement equal to the estimated amount of Social Security benefits payable at age 62 will be paid to annuitants from age 55 until age 62. This supplement will be increased annually by the percent increase in the Social Security Act average wage index. A pro rata formula for part time service is also specified.

Section 8414 provides for reduction of an immediate annuity that begins before age 62. The reduction is two percent for each year the participant is under age 62 on the date of a voluntary retirement at age 55 with 30 years of service or an involuntary retirement under section 8411(e). The annuity is reduced by five percent for each year the participant is under age 62 for a participant who elects to receive an annuity after age 55 but before completing 30 years of service. A five percent reduction for each year the participant is under age 55 applies to law enforcement officers, firefighters, air traffic controllers, and military reserve technicians.

Section 8415 provides for actuarially reducing an annuity to provide for one or more survivor annuities.

Subsection (a) provides for an automatic annuity reduction to provide a survivor annuity to the spouse of a married participant unless the participant and his or her spouse jointly waive the spouse's right to a survivor annuity as provided in section 8416.

Subsection (b) provides for an automatic annuity reduction when the participant has elected to provide a survivor annuity to a former spouse.

Section 8416 provides that OPM shall prescribe methods of payment of annuities and participant election of the method preferred. Included in those methods are a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant may receive an survivor annuity under this provision.

An individual who is married on the date he or she applies for payment of the annuity to begin may elect a method of payment other than a joint-and-survivor method only if the individual and his or her spouse jointly waive an annuity under this method.

Section 8417 provides that a participant who retires voluntarily prior to age 62 may elect to have his or her annuity payments adjusted in such a way that the total amount received before and after receipt of Social Security benefits begin is approximately the same. This does not apply to deferred retirement or to the special retirement classes.

Section 8418 provides that each Federal agency shall contribute an amount equal to the normal cost of the benefits for the agency's employees, as determined by OPM. It also provides for a yearly determination of the Fund's supplemental liability which is to be amortized over 30 years by payments from the Secretary of the Treasury or the Postmaster General of the United States, as appropriate. OPM may use the current CSRS Board of Actuaries for making actuarial determinations and valuations for the CSRS.

Section 8419 provides that military service is creditable service and that the Department of Defense Military Retirement Fund shall reimburse the fund annually for the normal cost relating to the military service of employees and members who become participants during the fiscal year. This excludes employees covered by the CSRS who elect under section 8471(a) to join the CSRS.

Subchapter III describes the thrift savings plan, which is an optional plan permitting participants to contribute a percentage of their basic pay or disability benefits to a selected investment vehicle and have those contributions matched by the government.

Section 8421 allows participants to contribute up to 10 percent of their basic pay to the thrift plan. Those participants who are receiving disability benefits may contribute up to 10 percent of the disability benefits payable. An opportunity to change the contribution amount will be provided at least annually. Employing agencies are

required to match the participant's contribution, up to five percent of the participant's annual rate of basic pay or the disabled participant's disability benefits. Amounts contributed to the thrift fund are not included in the employee's current gross income for income tax purposes.

Section 8422 provides a vesting schedule for the thrift plan. A participant immediately vests in his contributions and their earnings. Beginning after one year of service, the participant vests in 20 percent of the employer's contribution. This increases by 20 percent for each additional year of participation up to five years and beyond, when the entire share contributed by the employer, plus interest, is vested. A participant who dies while employed by the government immediately vests in 100 percent of the employer's contribution and the earnings on it. For a participant who separates from employment before becoming entitled to an immediate annuity, any employer contributions which he has not vested in are transferred to the Treasury for credit to Miscellaneous Receipts.

Section 8423 describes the optional ways an employee may choose from to receive thrift account payments from the thrift plan at separation from employment, depending on his or her status under the basic pension plan.

Subsection (a) permits a participant who is entitled to an immediate annuity to elect one of the four methods below:

- (1) An immediate annuity
- (2) A deferred annuity
- (3) A lump sum or installment withdrawal
- (4) Transfer to an individual retirement account  
or other qualified retirement plan

Subsection (b) permits a participant who is entitled to a deferred annuity to elect one of the methods described above. For the first three methods, the money is not payable until the date of the participant's eligibility for retirement.

Subsection (c) permits a participant who is not eligible for any pension to elect one of the three methods below:

- (1) An annuity at age 62
- (2) A lump sum or installment withdrawal at age 62
- (3) Transfer to an individual retirement account  
or other qualified retirement plan

Subsection (d) permits a participant who elected to defer an annuity payment to modify the date specified in that election.

Section 8424 describes how annuities available from the thrift plan will be computed and paid. The Thrift Investment Board will prescribe methods of payment which must include a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant is also covered under this provision. The amounts will be determined actuarially. Methods for providing

annual increases in the annuity payable must also be prescribed.

Section 8425 provides rules for elections by participants entitled to payments or transfers from the thrift plan.

Section 8426 establishes the Thrift Savings Fund and prescribes how monies in the Fund may be used. Included in these uses is a requirement for the Board to establish a program to make loans to participants in cases of hardship.

Section 8427 describes how employee and employer money will be invested.

Subsection (a) defines terms used in application of this section.

Subsection (b) requires the Board to establish three funds under which sums in the Thrift Savings Fund may be invested and provides an option to establish other funds. The funds are:

(1) A Government Securities Investment Fund which is invested in special issues of the Treasury.

(2) A Fixed Income Investment Fund which is invested in insurance contracts, certificates of deposits, or other instruments.

(3) A Common Stock Index Investment Fund which is invested in common stock issues included in a commonly recognized stock index, with the percentage invested in a given stock to be the same as the percentage of that stock's market value included in the index.



Subsection (c) specifies that sums in the Thrift Fund which are not designated or available to be invested in one of the other investment funds will be invested in the Government Securities Investment Fund.

Subsection (d) states that participants may elect, at least once each year, the investment funds into which they wish to have their Thrift Savings Fund invested or reinvested.

Subsection (e) specifies that, during the implementation phase of the Thrift Savings Fund, a certain percentage of the contributions made by and for the participant must be invested in the Government Securities Investment Fund. For participant contributions, the initial amount is 100%, reduced by 20% each year over a five year period, beginning in 1988. For agency contributions, the same phasing schedule applies, beginning in 1993. All amounts earned on these contributions must be reinvested in the Government Securities Investment Fund. Participants hired during the temporary adjustment period will have contributions for that period, as described in section 8475(b), invested in the Government Securities Fund.

Subsection (f) provides for the Secretary of the Treasury to issue, as needed by the Fund, two year notes bearing an interest rate equal to the average market yield of all such notes as of the end of the month preceding the date of issue.

Section 8428 prescribes how the Executive Director is to account for the funds of each participant in the System and requires that the participant be provided an annual statement of his or her account. An annual audit report by an independent qualified public accountant is also required.

Subchapter IV describes the benefits available to survivors of deceased participants and former participants from the basic plan and the thrift plan.

Section 8431 provides for payment of death benefits from the basic plan to the surviving spouse of a participant or a former participant other than an annuitant if the deceased had five or more years of service. If the participant or former participant was eligible to retire, the survivor gets 50 percent of the accrued annuity (computed as if he or she had retired the day before death, with any applicable reductions for early retirement and for election of a survivor benefit). If he or she was not eligible to retire, the benefit is computed as described above but payment is delayed until the date he or she would have been eligible to retire.

Section 8432 provides for payment of death benefits from the basic plan to the survivor of an annuitant in accordance with an election under section 8416, 8434(a), or 8436(c).

Section 8433 provides for survivor benefits from the thrift savings plan. If the deceased participant or former participant is not survived by a spouse, payment is made to an individual designated as having an insurable interest or,

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if no such designation was made, to the deceased individual's estate. A surviving spouse entitled to payment of benefits may elect to receive the money under one of three methods.

These are:

- (1) An annuity
- (2) Transfer of the money to an individual retirement account
- (3) Lump sum or installment withdrawal

Section 8434 provides for basic and thrift savings plan survivor benefits to a spouse acquired after payment of the annuity begins. The election is effective the first day of the second month beginning after the election is received but not earlier than nine months after the date of the marriage. A deposit to retroactively fund this election is required as needed. An election of a annuity reduction to provide this benefit is not permitted if the spouse acquired after retirement was married to the annuitant when payment of the annuity began and the annuitant and spouse had jointly waived the right to a survivor benefit.

Section 8435 states the entitlement of eligible former spouses to receive survivor benefits from the basic plan and the thrift plan. The benefits from the basic plan are the same as for a surviving spouse under sections 8416, 8431, or 8432. Benefits from the thrift fund are determined actuarially.

Section 8436 provides for an annuitant to elect a survivor benefit from the basic plan and the thrift plan for an eligible former spouse.

Subsection (a) permits an annuitant who has a former spouse to elect an annuity reduction in order to provide a survivor annuity to such former spouse. The election must be made on or before the date the annuitant applies for payment of an annuity from the basic plan or, if later, within two years after the date on which the marriage of the former spouse to the annuitant is dissolved. A deposit, computed to reflect the amount by which the annuity would have been reduced if it had been continuously in effect since the date the annuity commenced, is required. An election of an annuity reduction to provide a survivor benefit to a former spouse shall not be effective if it:

- (1) conflicts with a court order or decree,
- (2) exceeds the funds available to pay it, or
- (3) is made without the written consent of the annuitant's spouse.

Subsection (b) provides that an annuitant whose annuity is being reduced to provide a survivor benefit to a former spouse may elect to provide or increase a survivor annuity for any other former spouse. This election must occur within two years after the former spouse's date of death or remarriage before age 55.

Subsection (c) provides for an annuitant to elect to provide a survivor annuity to his or her spouse if the entitlement of an eligible former spouse is terminated or reduced due to remarriage or death.

Subsection (d) provides for a waiver of the requirement that the spouse of a retiree waive a right to a survivor benefit in certain situation.

Section 8437 provides for termination of a survivor annuity on death of the spouse or former spouse, dissolution of the marriage, or remarriage of the former spouse before reaching age 55.

Section 8438 covers deposits to the Fund.

Subsection (a) requires a market rate of interest payment on any deposit needed to fund an annuity election under section 8434(c) or 8436.

Subsection (b) provides for offsetting the retiree's annuity if the required deposit is not made.

Subsection (c) permits OPM to extend the time limit for making the required deposit.

Subchapter V describes the disability benefits available to a participant who has at least 18 months of service.

Section 8441 provides definitions for the administration of this benefit.

Section 8442 provides that an eligible participant is entitled to receive benefits under this subchapter if disabled based on the Social Security definition and under 62 or if unable to work in his current position, not qualified for reassignment, and under 55. At age 62/55, the annuity is payable under the basic plan provisions of subchapter II based on at least 5 years actual service plus projected service through age 62/55. Average pay for the purpose of

converting the disabled person from the disability rolls to the retirement rolls at age 62/55 is the average pay on the date of disability, increased each time after that date by the Consumer Price Index minus two percentage points.

Section 8443 provides the following methods for computing disability benefits:

- (1) If eligible for Social Security or ineligible for Social Security only as a result of insufficient quarters of coverage, 60 percent of average pay minus 100 percent of the Social Security benefit while the participant is under age 62.
- (2) If occupationally disabled, 60 percent of average pay for the first year. After the first year, 40 percent of average pay minus Social Security benefits, if any, while the participant is under 55 years of age.

Section 8444 requires a claim for disability benefits to be filed before the date the participant separates from employment by the Federal Government or within 1 year after. This time limit may be waived by the administrator of benefits.

Section 8445 requires the administrator to direct medical examinations for disability retirement applicants or benefit recipients.

Section 8446 requires that an applicant who is determined able to perform the work required in any position offered by

his employing agency for which he is qualified, is at the same grade or level as his current position, and is within his commuting area, must be considered for appointment to such position. The applicant is entitled to appeal a determination that he is able to perform the work required of such position.

Section 8447 provides for termination of disability benefits to an individual who recovers from the disability before reaching age 62 or, in the case of an employee who is occupationally disabled, age 55. Recovery is presumed to occur when income for one year equals 60 percent of the current pay for the individual's former grade. These benefits may be resumed if there is a recurrence of disability. In the case of an individual whose benefits were terminated due to restored earning capacity, benefits are resumed if he is not reemployed within one year, his disability continues, and his income for one year is less than the amount establishing his restored earning capacity.

Section 8448 establishes that an individual is not entitled to receive both disability benefits under this chapter and injury compensation benefits under subchapter I of chapter 81 of this title for the same period of time.

Section 8449 provides for disability benefits for a military reserve technician who is separated from employment as a technician due to a disability which disqualifies him from membership in the National Guard or other reserve component, as the case may be, or from holding the military grade required for such employment and who is not placed in another position.

Section 8450 provides that OPM will contract with one or more insurance companies or other firms to serve as a third party administrator for the disability program provisions which OPM is not specifically required to administer. Each contract awarded may not exceed 5 years and may include a provision authorizing extensions for 1 year at a time.

Section 8451 provides requirements for an annual accounting by the third party administrator to OPM.

Section 8452 provides for the establishment of an Employees' Disability Insurance Fund in the U.S. Treasury and requires agencies to make payments to the fund from their salary appropriations.

Subchapter VI describes general provisions applicable to the administration of the basic plan.

Section 8461 provides that OPM shall pay all benefits payable under the basic plan from the Fund and shall administer all provisions not specifically required to be administered by the Board or any other agency. OPM is also authorized to contract for the performance of any of these functions.

Section 8462 provides for an annual adjustment to the basic pension as a result of an increase in the Consumer Price Index (CPI). The increase will be the percentage increase in CPI minus 2 percentage points. The adjustment is made in December (payable in January), and is based on the change from September to September. A pro rata share of the increase is payable to retirees or survivor annuitants for whom this is the first increase.



Section 8463 provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which is the monthly rate payable.

Section 8464 provides that a participant's annuity under the basic pension commences on the first day of the first month after the participant separates from government employment or such later date as he or she elects. It terminates on the date of death or other terminating event provided by law. It further provides that a survivor annuity commences on the first day of the first month after the date of death of the participant or retiree on whom the annuity is based and terminates on the last day of the last month ending before the surviving spouse dies or remarries before age 55, unless another date is specified in accordance with this chapter.

Section 8465 provides that an individual entitled to receive a basic pension may waive receipt of all or part of the benefits. An individual may also make allotments from the benefit payment.

Section 8466 provides that an application for benefits must be received before the former participant's 115th birthday; for survivor benefits, the application must be received within 30 years after the death or other event which establishes entitlement to the benefit.

Section 8467 requires compliance with the terms of a court order requiring payment of an annuity, in whole or in part, to another person.

Section 8468 provides for termination of an annuity when an annuitant is reemployed by the Government. Upon termination of the employment, his annuity rights are redetermined. The amount of the annuity resulting from a redetermination may not be less than the amount of the terminated annuity plus any COLA increases.

Subchapter VII outlines the transition provisions for individuals covered by the CSRS who choose to participate in the CSPA.

Section 8471 permits participants in the current system (CSRS), other than District of Columbia government employees, to elect to participate in the new system (CSPA) during the first year it is in effect and to retain accrued credit for entitlement to benefits under the CSRS for service subject to that system. It also provides that rehires who are required to participate in the CSPA retain credit earned under CSRS and are permitted to deposit to the CSRS fund any amount previously refunded. Survivor benefits may be payable based on conditions of eligibility and service under both CSRS and CSPA.

Section 8472 provides that CSRS participants who elect to participate in the CSPA are allowed credit for service under both systems for purposes of determining eligibility to retire in both systems and of vesting in the thrift plan. Pay for such individuals subsequent to beginning participation in the CSPA is taken into account in computing average pay under both systems. Disability benefits are provided only under the CSPA.

Section 8473 provides that service by a participant during the temporary adjustment period will be recognized as years of participation for the purpose of vesting in the employer's contributions to the Thrift Savings Fund under section 8422. For such participants, monies will be transferred from the Fund to the Thrift Savings Fund in an amount which equals twice his or her contributions plus interest for any calendar year at the rate determined under section 8534(e) of title 5. The amount transferred will be in the form of interest-bearing securities of the United States. For vesting purposes, half of the amount will be treated as a contribution from the participant and half as a contribution by the employing agency. Participants hired during the interim period who made a deposit to cover military service will receive a refund of the deposit.

Section 8474 defines "reemployed annuitant" for various Government retirement systems. This section provides that a reemployed annuitant retains entitlement to the Government retirement system under which he/she retired. It further provides that service performed as a reemployed annuitant under CSPA shall be credited only for eligibility to retire under CSPA and cannot be considered creditable service for the annuitant's previous retirement system. Also, pay earned as an employee before and after reemployment is considered in computing average pay under both the CSPA and the annuitant's Government retirement system.

Section 8475 excludes former CSRS participants who join the CSPS from the windfall reduction and the public pension offset provisions of the Social Security Act.

Section 8476 authorizes OPM to prescribe regulations to carry out this subchapter.

Subchapter VIII describes the Civil Service Thrift Investment Management System.

Section 8491 establishes a Civil Service Thrift Investment Board, composed of the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM, and two representatives of Federal employee organizations appointed by the President, one of whom must be from a labor organization and one of whom must be from a Federal employee management organization. The Chairman of the Federal Reserve Board will chair the Board. Specific responsibilities of the Board are detailed here.

Section 8492 provides for the establishment of a Civil Service Thrift Advisory Committee, composed of six members appointed by the Board. Three are to be investment asset managers and three are to be administrators of thrift savings plans.

Section 8493 provides for the Board to appoint an Executive Director to carry out the policies of the Board in administering the Thrift Savings Fund. The Executive Director is authorized to enter into contracts as necessary to carry out these policies.

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Section 8494 states the investment policy governing the Thrift Savings Fund. This includes a provision that investments chosen are likely to receive broad acceptance by participants and the public, and a provision that the two funds which specifically provide for private sector investments should not require a significant level of active investment decision-making.

Section 8495 provides rules of administration for the Board.

Section 8496 identifies fiduciaries and their responsibilities, defines "party in interest," states basic standards of fiduciary conduct, lists prohibited practices by fiduciaries, and describes penalties for committing a prohibited practice.

#### TITLE II - AMENDMENTS RELATING TO SOCIAL SECURITY.

Section 201 amends section 210(a)(5) of the Social Security Act to cover service performed by an individual who commences participation in the CSPS.

Section 202 amends section 3121(b)(5) of the Internal Revenue Code of 1954 to tax the wages of an individual who commences participation in the CSPS.

#### TITLE III - MISCELLANEOUS AND CONFORMING AMENDMENTS

Section 301 extends the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 from January 1, 1986 until January 1, 1987.

Section 302(a) amends section 8331 of title 5, United States Code, to limit coverage under the CSRS for District of Columbia government employees to those first employed before January 1, 1987.

Section 302(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participants in the CSPA from receiving service credit under the CSRS, except in certain limited situations affecting participants retaining entitlement in the CSRS under section 8472.

Section 302(c) amends section 8333(b) of title 5, United States Code to modify the requirement that an employee or Member must complete at least one year of creditable service as a participant in the CSRS out of the last two years before separation to include service under the CSRS. It also amends section 8333(c) by making the contribution requirements applicable only to service performed while not a participant in the CSPA.

Section 302(d) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1983 and who was subsequently covered by Social Security will continue in the CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the OASDI portion of the Social Security tax.

Section 302(e) amends section 8339 of title 5, United States Code, to specify that the CSRS benefit received by those covered under subsection (d) will be offset by 100% of the Social Security benefit attributable to federal service.

Section 302(f) amends section 8347(a) of title 5, United States Code, to permit OPM to contract for the performance of administrative services necessary to carry out its responsibilities under subchapter 83.

Section 302(g) amends section 8348(a) of title 5, United States Code, to clarify that the Civil Service Retirement and Disability Fund is available to pay benefits and administrative expenses for both chapters 83 and 84 of such title.

Section 303 amends section 1005(d) of title 39, United States Code, to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 304 requires agencies to pay all group life insurance basic plan costs for CSPA participants from salary appropriations.

Section 305 amends sections 8901(10) and 8905(c) of title 5, United States Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98-615. It also amends section 8905(b) to permit a family member of a deceased employee or annuitant who was enrolled in a health benefits plan to continue that enrollment.

Section 306 amends section 2105(c) of title 5 to provide that chapter 84 does not apply to employees of certain non-appropriated fund instrumentalities.

TITLE IV - AUTHORIZATION AND EFFECTIVE DATES:

Section 401 provides for payment of the fiscal year 1986 and 1987 expenses of the Civil Service Thrift Investment Board from appropriations.

Section 402 provides that this act takes effect January 1, 1987, except for subchapter VIII of chapter 84 (relating to the Civil Service Thrift Investment Board), which takes effect on the date of enactment, and the loan program required by section 8426(e) which must be established not later than January 1, 1988.